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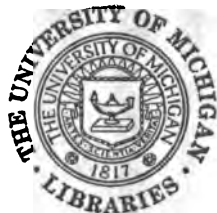


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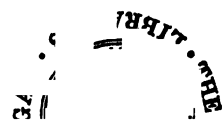
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THE
HISTORY OF NORTH AMERICA

Francis Newton Thorpe, Ph. D.

Fellow, and Professor (1885-1898) of American Constitutional History.
University of Pennsylvania, Editor



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ANDREW JOHNSON

*From the painting by E. F. Andrews, in the Corcoran Gallery,
Washington.*

THE HISTORY OF NORTH AMERICA
VOLUME SIXTEEN *THE RECONSTRUC-*
TION PERIOD

BY

PETER JOSEPH HAMILTON

Author of: The Colonization of the South; Rambles in Historic Lands; Colonial Mobile; Mobile, in Historical Towns of the South series; Rights and Duties in Time of War, contributed to Taylor's International Law. Compiler of: Code of Mobile. Joint compiler of: Code of Alabama, 1886; Brickell's Digest of Alabama Decisions, etc., etc.

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DEDICATED
TO
THE MEMORY OF MY FATHER,
PETER HAMILTON,
WHO, BORN IN PENNSYLVANIA OF ENGLISH PARENTAGE AND EDUCATED
AT PRINCETON, SPENT A USEFUL AND INSPIRING LIFE
OF FIFTY YEARS IN ALABAMA.

Flavin M. Crocker

Thoma

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EDITOR'S INTRODUCTION

RECONSTRUCTION is the name given to the decade following the Civil War. In most minds the word associates itself with one dominant act,—the elevation of the negro race, in America, to civil and political equality with the white race. This change was a revolution in thought and in government: it came suddenly, imperiously and irrevocably. If by an act of thought one could eliminate the negro race from American history, it would be impossible to conceive of a period of "reconstruction" in the order of events on this continent.

Reconstruction thus taking its meaning from the presence of the negro race in America, and from the relation of that race to the white race, it follows that the history of reconstruction coincides with the course of events which determined the relation between the two races.

So long as slavery continued in America, the amelioration of the condition of the negro was individual and exceptional,—not general and regular. Many restrictions, other than those inseparable from a state of slavery, limited the extension of the suffrage to the negro. Even in free States in which it was legally possible, as in New York before 1868, for the negro to become a voter, public sentiment was hostile to the innovation. Despite all sentiment favorable to the extension to the negro of civil and political rights possessed by white men, the mind of the American people,

down to 1860, was fixed in the conviction that the status of the negro was inferior to the status of the white man.

Ten years later, the negro race was entitled by the constitutions and laws of the land to all the civil and political rights of the white race. This startling innovation, unparalleled in history, constitutes the essential quality of reconstruction.

It is evident that it is easier to fix the initial than the final date of this change. The secession of South Carolina, in December, 1860, may be accepted as the act which precipitated reconstruction. Followed by other slaveholding States, South Carolina unintentionally began a movement which has wrought a revolution, not only in the status of the negro race, but also in the conception of sovereignty, of Federal relations, of industry, of citizenship, and of nationality in America.

In a larger sense than that compassed by the popular conception of reconstruction, the change which it embodied carried with it a reorganization of civil and political affairs in America. The present volume concentrates attention upon the South as a country in process of civil and political rehabilitation. It introduces the reader to a conquered country, in the grasp of a hostile conqueror. The war which followed secession is described as "a war for southern independence." The conqueror imposed conditions upon the conquered,—chief of which, embodied in the thirteenth, fourteenth and fifteenth amendments to the Constitution, were the abolition of slavery, the repudiation of all obligations incurred in aid of secession and rebellion, and the admission of the negro race to civil and political equality with the white race.

The history of the adjustment and the attempt at adjustment, under these conditions, at the South, from the cessation of the war till the inauguration of President Hayes, and the early acts of his administration,—that is, from 1865 to 1877, is the theme of the present volume. It carries the reader to the South and keeps him there. It describes many

scenes of aggressive administration; it portrays the submission of the white race of the South, for a time, to the domination of the black race, sustained by Federal troops. It puts before the reader, in no unmistakable way, the sentiments and convictions of southern white men during this period of domination. It is a picture of the South under reconstruction.

To the great value of such a narrative all men anxious to know truth will agree. A period of war, followed by an even more bitter period of civil and political reconstruction, —a reorganization of society destructive of established ideals, affords a dramatic theme. It is practically impossible for one whose experience has been wholly in the North to know the meaning of reconstruction. Only they who are of the South can weigh and measure all that the term implies. Whence it follows, that an historical work which like the present volume, is written by a southerner whose inheritance by birth and training imparts restraint, equity and accuracy to his treatment of the theme, and that nice sense of toleration which marks the mind with wide sympathies, is a notable contribution to an obscure, a controversial,—a difficult subject.

It is only within a few years that the reconstruction period has become the subject of critical investigation. The stupendous change in the status of the negro race, made by constitutions and laws from 1865 to 1870 required, for their understanding, a calmer mind than was possible for the mass of the American people at the time. The Congresses which enacted the great reconstruction laws, and which passed and submitted to the people the thirteenth, fourteenth and fifteenth amendments, were led by statesmen, of whom Abraham Lincoln was chief. His attitude toward reconstruction, in its initial stage, was unequivocally expressed by his advocacy of the thirteenth amendment, which passed by Congress, February 1, 1865, received the ratification of twenty States before his death. He suggested to Louisiana a conservative trial of negro suffrage. His policy

toward the former Confederate States is known to have been liberal: but its practical operation must always remain a matter of speculation.

Lincoln's assassination made Congressional reconstruction severe; the South was the chief sufferer because of his death. Its sufferings were the greater because of the hostility between Congress and President Johnson. Reconstruction, because of these calamities, became a military rather than a civil procedure.

Yet it is the very suffering of the South, during the reconstruction period which, dwelt upon insistently by historians, may mislead the student of American history. The white race, North and South, with few individual exceptions, has always looked upon the negro as an inferior race. The white people of the South have never believed that the negro is capable of exercising civil or political rights with a white man's understanding. This conviction is practically as strong to-day as it was during the reconstruction period. Because of this conviction, North and South, the profound significance of reconstruction, in the evolution of representative government in America, is obscure to most men. In-born racial hostility makes most readers of the literature on reconstruction prejudiced. The sympathies of the white man will ever be, in the last resort, with his own race. The sympathies of the reader at the present time, now more than forty years after the abolition of slavery, will lie with his race.

But there is a larger meaning to reconstruction. That radical readjustment of civil and political forces necessitated by the civil war was obedient to industrial and moral ends. Despite all adverse criticism of the entire policy of reconstruction as formulated by laws of Congress and by amendments to the Constitution, the essential process of reconstruction was organic and humane. It was a national, and not merely a sectional reorganization. It was part of the general and ever slowly developing definition of the rights of men. It raised the white race as well as the black, in

America, to a higher plane. It aided in formulating the true conception of representative government, of free institutions, of free labor, of an equitable, strong and sane nationality. It conduced to a more perfect understanding of the proposition that ours is a government of laws and not of men. It extended the privileges as it made clearer the definition of citizenship. It helped to dissipate the obscurities which so long had made difficult the administration of government because of the confusion of State and Federal functions. It recognized the supremacy of the immortal doctrine,—“all men are created equal.”

He who laments the admission of the negro race to the civil and political privileges of the white race, in America, forgets the awful responsibility for the black race which was lifted from the shoulders of the white by this act of reconstruction. He who blames the Congresses of 1865-1870, for the “blunder” of negro citizenship must remember that self-protection is the first law of nature, and that, in practical government, the class which cannot protect itself by actual participation in the government soon has no rights which any other class respects.

It was undoubtedly a perilous choice which the statesmen of reconstruction days made, when, deliberately, by laws and constitutions, they submitted to the American people the whole question of negro suffrage and that suffrage was granted. But the peril was far less than the denial of the privilege and the retention of the negro race in an anomalous condition, which, however it might in theory trend toward freedom and citizenship, was bound, in practice, to sink the race back into slavery.

Reconstruction is a word whose full meaning in America cannot be known for many years,—perhaps for centuries. The ebb and flow of civil affairs are yet too imperfectly understood to warrant any anticipation of the final decision on the exercise of the suffrage by the negro in America. The destiny of the negro is in the hands of his race. He has been given full civil and political rights. If he proves

himself equal to the responsibility thus conferred upon him, the conclusion is clear. Equally clear is the conclusion if he proves faithless and unequal: he will be eliminated from citizenship.

Whatever the consequence, whether of the civil and political elevation of the race, or of an alignment of it or of any portion of it below the status of an elector, one effect of reconstruction must continue to strengthen: namely, the union and coöperation of the white race, in America, in active administration of those principles of government laid down by the Fathers, and slowly defining themselves with the development of the nation.

FRANCIS NEWTON THORPE.

AUTHOR'S PREFACE

THE plan of this work does not admit of footnotes and, in addition to authorities named in the text, reference should be made to the many biographies as well as to statutes, reports and other public documents, State and Federal. Many papers of the period are made accessible in Fleming's *Documents Relating to Reconstruction*, and among monographs Herbert's *Solid South*, Fleming's *Alabama*, Garner's *Mississippi*, Reynolds's *South Carolina*, and DeWitt's *Impeachment of Andrew Johnson*, and the essays in the *Atlantic Monthly* should be specially mentioned. The essays of Wm. A. Dunning are always suggestive, and I trust it is no breach of propriety to say that the *Constitutional History of the United States*, by Francis Newton Thorpe, furnishes a study and often the words of the debates and resolves of the State conventions which is essential to any understanding of the period.

P. J. HAMILTON.

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THE RECONSTRUCTION PERIOD

HAMILTON

INTRODUCTION

HISTORY is the story of race development. It might almost be said to be race tendencies worked out, for leaders are themselves the product of the times, guiding best when they are most representative. Leaders have their main usefulness at the beginning, or at some other crisis in the nation's history; but so far as they do not represent and guide the tendencies of their country they are themselves soon eliminated and thrown off.

At the formative period of American history Washington was the most striking figure, but it was the equipoise of Washington which gave him his commanding position. The tendencies of the day were more truly represented by Hamilton on the one side and Jefferson on the other—one standing for the national aspiration, the other for that of local self-government. The Constitution as framed was a compromise, but the government as first administered received a national tendency to some extent perpetuated by the commanding and weighty judicial influence of Chief Justice Marshall, despite the reaction in the other direction under the administrations of Jefferson and his successors. The history of a country is somewhat like that of an individual. The instruction and guidance given in youth by teachers may have a moulding power, and yet the period of adolescence, of growth, is apt to be one of *Sturm und Drang*, when one is rather trying his powers in different directions than resting under fixed moral or intellectual guards. With maturity,

more intellectual questions come to the front, and one's relation to his fellows becomes important and controlling. Thus, the individual communities, which were called States, were interested at first in the development of material resources, in peopling their wastes. In such times all means previously known would be recognized and utilized, and slavery, an institution known at one time or another among all races, civilized or uncivilized, would create no question where it was useful. The intellectual and moral horizon was limited. On the other hand, with the growth of manufactures and commerce, which came first in New England, there would be some with whom mere material considerations would have less weight. Moral and intellectual matters, particularly if one's own material resources were not involved, would come more to the fore. And thus it was that the discovery that slavery was a moral evil, if not peculiar to New England, was original with that section. Meantime, the West and South kept on in their material evolution without much regard for such matters, and it was only as the West, increased from time to time from States created out of common territories, reached maturity that it took much interest in the question.

During this period the anomaly was presented that the political party representing decentralization was that which was expanding the geographical bounds of the Union, as shown particularly in the Mexican War. The domestic policy, however, still was to look on the country as a federation of States, which, if not independent, were only restrained by a compact between them. This was the interpretation given by the Supreme Court under Roger B. Taney, a great and pure man, who from 1836 filled the seat of Marshall and kept the judicial department in harmony with the Democratic tendencies of the executive and legislature.

It can hardly be doubted that if nothing had arisen to divide the country into sections, nevertheless the filling up of the States and the better communication caused by

modern inventions would have produced of themselves a more perfect Union. In its original form, the Constitution was adapted rather to loose communities than to a compact country. It so happened, however, that the institution of slavery, driven from the North by climatic conditions, had found a congenial home in the South. For economic reasons it must either have a free course or it would be hemmed in and ultimately extinguished. At first there was a Missouri Compromise, drawing an arbitrary line across the continent, but ultimately the South was interested in having the common territory opened to its peculiar institution. A Free Soil Convention of 1854 declared that the Union could no more make a slave than it could make a king, but the Dred Scott decision three years later sustained the contention of the slaveholders that the Constitution already recognized slaves as property and that therefore Congress could not prohibit owners from going into the Territories with their property.

On the one side it was thought that this case would settle the question and pacify the Union, but, as with attempts which will meet us later, it produced the contrary effect. The States, or at least some of them, had reached that point in their material evolution which enabled men to look at questions from a moral point of view.

It were useless to inquire which is the original tendency of mankind. While the sex attraction is primeval, founding the family and so a race necessity, it has always been essential that man should do some labor in order to supply his bodily wants, and worship of the unseen world is one of the earliest intellectual efforts. The family and industry supply individual yearnings and antedate social organization; nevertheless it is in society, political and religious, that man fulfills his tendencies and effects his true advance. In early times church and state have been united, either in one or in coördinate hands, and then in the Middle Ages we find the civilized world convulsed over their contest for supremacy. The Reformation might have been only a

change from a Roman to a Protestant pope, with the same rivalry between state and church, had not the principle of individual thinking been pushed so far among the Protestants as to break the church into different and sometimes hostile denominations. Nevertheless there has always been a religious empire, even if it lacked an earthly head. Religious beliefs and the moral impulses growing out of them have swayed the world as often as commercial and industrial tendencies. In these modern days trade, commerce and industry seem to rule, but, if romance has gone, if religion has been sublimated, the moral order is still supreme. The American commonwealths and the American Union were all based upon the separation of church and state, and yet, despite State lines and the number of denominations, religion was a stronger tie than any other. The Methodists, the Baptists, the Presbyterians, with common conscience and common aspirations, with ecclesiastical organizations, which, as in the case particularly of the Presbyterians, had a common head, formed in America at the beginning a more perfect union than that of the Federal government. Whatever conscience dictated, whatever enthusiasm inspired in one part of the country was quickly communicated to the rest. If Christian people should become aroused upon any subject, it would either make or rend the Union. Under the most different conditions, the hold of the church in America was yet as strong as in mediæval Europe.

Thus in several decades before the Civil War the country had developed sufficiently for the abolitionists of New England to find themselves strong in the Western States also, and, although small in numbers, their influence was like leaven.

There must also be added a political impulse, which, although not recognized, was at least as powerful. This same Dred Scott case decided that the Federal Congress could not regulate the affairs of the Territories in any way contravening the interests of a particular section, and this on the accepted view that the Union was only the agent of

the States. Now, however, the people of these different States had increased in numbers and wealth to such a degree that their aspirations passed local bounds and developed a common patriotism. To this the large European immigration, which knew no State pride, as well as the expansion of New England, with its more nationalist aspirations, both contributed. So that a moral reaction and a feeling of nationality were both fast developing in the East and West as over against the smaller and more conservative South. There could be no doubt as to the final result of a struggle between free white labor and slave labor controlled by white men, and the South attempted to depart in peace.

Thus came to a focus the question, which since the time of Hamilton had been in abeyance, whether the country should be national or federal. The word nation does not occur in the Constitution, and in point of fact while the instrument was in preparation it was struck out of the original draft in a number of places. The construction of that instrument to the effect that the Union was federal and not national was probably correct, and at all events had become the fixed construction of the courts, and the only way it could be formally changed would be by an amendment. Amendments had been made on less important points. The first ten, merely supplying defects and in the nature of a bill of rights, were proposed and accepted at the adoption of the original instrument. The eleventh and twelfth had been real amendments, but after all more as to machinery than otherwise. Congress in efforts to avert war proposed and President Buchanan had sanctioned a thirteenth amendment in order to put slavery beyond the reach of the national legislature; but the Civil War began before this could reach the States and it remained acted on by only three States.

In most civil wars the struggle is for control of the political department of the government. The triumph of one side is followed perhaps by temporary proscription, but

shortly by restoration and recuperation of the whole country. In America the corresponding period is generally known as that of Reconstruction. In its strictest use this covers the time from the surrender of the Confederate armies in April and May, 1865, until the restoration to the Southern States of the right of representation in Congress, which was completed as to most of them in 1868 and as to all by two years later. The administration of the States by these governments was a result of the reconstruction of their electorates, and its striking features make the succeeding years, down at least to 1876, a proper part of any full study of the period.

The content of Reconstruction is as important to understand as its extent. The struggle over the extension of slavery to the territories had caused the South to appeal to the reserved sovereignty of the States as justifying secession, and the Civil War resulted, with its thrilling experiences. As a war measure Lincoln undertook to abolish Southern slavery in 1863, and the claim of secession would seem to have been extinguished two years later at Appomattox. The two causes of the Civil War had thus been removed by force.

It was instinctively felt throughout the whole country, however, that a solution by force alone might not be permanent, because the fundamental law of America was found not in the bayonet but in the constitutions of the States and of the United States. The fruits of the success of the Federal arms would not be secure until the abolition of slavery and secession had been incorporated in these instruments. The problem was far-reaching, for it was gradually realized that there were vast consequences which were not removed with the mere extinction of slavery and secession. Secession was the greatest but it was only one of several results from the doctrine of State sovereignty, and slavery was not only a moral, but an economic question, affecting political, ecclesiastical and racial interests. Reconstruction on the political side was accompanied by reorganization

upon the social. Whether the North and South realized it or not, whether they approached the subject from the standpoint of passion or philosophy, they were nevertheless attempting to solve a vast problem. There was before them not only the readjustment of political forces, not only the readjustment of classes and economic interests, but the reorganization of society itself, complicated by the fact that the social structure mainly affected was made up of two differing and perhaps repugnant races. These movements form what is properly called the Reconstruction period.

Thus our study will be, if rightly treated, of great interest and value. It will embrace primarily perhaps the political sphere, and this is the one to which most attention has been called, although usually considered in a controversial and partisan manner. It will also include relations of the black man and the white man, the question of their future social relations, whether the family, which underlies all society, was to be of one race or result in amalgamation of the two. It was to go further yet and not only cover the problem whether the old religious organizations and work should be renewed and extended, and whether the whites and negroes should remain members of the same congregations, but, if they should not, what should become of the lower race. In the last place we shall have to consider the industrial situation, the reorganization of capital and labor, after an old form of capital had become an independent kind of labor. In all departments, but particularly in economics, we shall find strange experiments.

The stage upon which these problems were to be worked out itself presented varying features. Reconstruction has been often thought of as exclusively a Southern matter, but, even if so, the South itself had different divisions. Thus, the Border States of Missouri, Kentucky, West Virginia and Maryland, to which is also to be added Tennessee, while Southern in tendencies had by careful handling on the part of President Lincoln been separated from their sisters, and with them the process was to go on without the military and

without some of the other features which accompanied it further South. This was not all, for omitting the church, family and industrial sides so prominent south of the Ohio, Reconstruction affected the North also. It was a Federal, not a sectional matter.

The Civil War was as when a man emerges from a battle, religious it may be, or intellectual, with the revelation that he is something different from what he had known before, that powers which had lain dormant had become realized at last. It is not only the individual of whom we can say with Goethe that one who has not wept through a lonely struggle does not know the eternal powers and eternal truths. A country, too, can be born anew, and this was the case with the United States of America. During the progress of the war slavery was abolished through war measures in rebellious States, as a moral reform in the constitutions along the border; but it must yet find its formal expression in an amendment to the Federal Constitution in order to become final. Nor was this the most important result, for the yearning after nationality had become a realization and must itself be incorporated in the fundamental law, protected against any action by the defeated section when its States should be rehabilitated, and against any political revolution in the North itself. There must be no reaction, as after the English Commonwealth or French Revolution.

The constitutional lawyer may look upon Reconstruction as a process establishing freedom, citizenship and suffrage for the negro; but, while it was this, it was far more. The principal result of the war was a change of view as to what the country was, a return to the national aspiration of Hamilton, and, rightly managed, Reconstruction would be the process of nationalizing the United States and the fundamental law. It was a great opportunity, and, wisely used, would reunite the country and send it forth rejoicing for a new future. Misused or used for partisan purposes, it would perpetuate a division between the two sections which could not be cured, because it could not be reached by any

government. The history of Reconstruction is a history of what was done, for good or for evil.

Before the war the feeling had been that the States were supreme, or at least that primary allegiance, just as primary citizenship, was due to the individual States. The feeling during the war swung around to the other extreme, that the Union was supreme and the States only subdivisions. We may find that the actual result was a compromise between the two extremes, an Hegelian progress by union of the two into something different still. Possibly the decision might be that the Union was an indissoluble Union of indestructible States; but in any event neither the country nor the Constitution could for the future be the same that it had been in the past.

The voice of the people is not the voice of God, but as a rule the popular judgment as to great revolutions is in the main correct. Reconstruction was a matter affecting the whole Union, but in a peculiar sense it did especially relate to the South. At the North the struggle over the adoption of the Amendments was confined to wordy debates; at the South, it was the revolt of a race endeavoring to retain its own purity against what it considered threats and persuasions to amalgamation with inferiors. It was a struggle in which military resistance was out of the question, for the Northern army was in control of the whole country.

There were three factors which we shall have always to bear in mind. On the one side there was the triumphant North, now aflame with holy zeal for the equality of all men, regardless of race, color or previous condition, determined to make this equality a fundamental fact, using every means, attacking every institution of society with that end in view. On the other was the white South, its armies conquered and scattered, its material resources destroyed by war, and yet its pride instinctively revolting against any mingling with the blacks, determined on the use of every means to prevent lowering its race standard, the one thing left to it. Between, the innocent cause of the whole social

revolution, was the African—elated at emancipation, not knowing whither he should turn or what he should do, a veritable football of the sections.

The movement resembled a crusade, but a crusade which stands alone in history. It was not the union of different countries and different races under a religious inspiration against a common foe; it was conducted by men of one race against others of the same race, within a common country, and yet for the benefit of a different race. In some respects it was like that of the Catholics of Northern France against the Albigenses and other heretics of the South; and yet it was with no purpose of cruelty as there. A striking feature of the modern movement was that it regarded the South as at best a *tabula rasa*, perhaps sometimes as a half civilized country, upon which should be written or impressed better and higher institutions, not only political, but social, religious and industrial as well.

A crusade, however, has to be enforced by some one, and it may be we shall find that with the end of military occupation the agents were less competent. At the close of hostilities the reorganization could be carried out in one of two ways. Either the Southerners themselves could be trusted to work as earnestly in peace as they had fought bravely in war, or they could as a rule be denied the ballot and the future trusted to such people as followed in the wake of the Northern armies or deserted their old Southern principles. The choice was open and upon it depended the future. It may be, too, that some philanthropists would expect the negro to play an important part, but if so it could only be on the idea that he was practically a Caucasian with a black skin, that slavery was not his native but an enforced condition, and that emancipated from it he would at a bound attain civilization. In any event the new crusade was to be carried out by agents heretofore unknown to history, and there could hardly fail to be strange results.

This was not, of course, the first time in the history of the world that two races had been thrown together in one

territorial division to work out their salvation. It was not even the first time that the two races so thrown together occupied respectively a position of superiority and inferiority. Thus, the irruption of what were called the Barbarians in the decline of the Roman Empire was the most gigantic example known in history, when the Teutons long lived a life of their own, with their own laws and customs, alongside the native Roman peoples with their laws and customs, subject all to one rude general government. Somewhat the same thing had occurred later among the English ancestors of the Americans, when the Normans settled down in the ownership of almost all the land, although it was actually cultivated by the Anglo-Saxons. In these instances, as in others, the two races, when in course of time contact had soothed asperities, had become fused into one common and even more vigorous nation. The France and England which resulted had long been the leaders of the world, and no small part of their vigor could be traced to the racial unions which marked their origins. After the American Civil War, however, it was not a question of conquerors and conquered dwelling together, but of a race of African slaves suddenly become free and facing a future among their Anglo-Saxon masters. History furnished no exact parallel. What could be done by force might be guessed from the civil struggles of early Rome, where the Plebeians by revolution made themselves gradually the equals of the Patricians in political and civil rights; and what could be done by time might be learned from the Middle Ages, when the serfs or villeins gradually raised themselves to the position of tenants, and even in increasing ratio became landowners themselves. These class distinctions, however, were within the bounds of one race, and it required centuries for their extinction.

None presented the case of races of different color and civilization. When this had occurred in ancient times in India and Egypt, it was conquerors remaining different from the conquered, sometimes constituting a separate caste. On

the other hand, in Mexico and South America the few Spaniards gradually amalgamated with the Indians, and the conquest was almost forgotten. From some ethnological cause which we need not stop to investigate there seems to have been an easier mixture of the Latins with the darker races of the tropics, while on the other hand the fairer Anglo-Saxons have always shrunk from legal intermingling of blood, although absorbing readily other Teutonic strains. It may be that to this instinctive preservation of race purity is due the progressiveness of the Anglo-Saxons themselves. It is true the French remained distinct in Hayti, Martinique and other of the West Indies, but their experience was even less inviting. The great French Revolution had been a struggle for liberty, equality and fraternity, and we are told that in France even yet fraternity has hardly been attained. The consequences in Hayti, where there was proportionately a large negro population, were disastrous. Under able leaders the negroes had massacred the whites and with the aid of pestilence kept out the armies of Napoleon, with the result of a Black Republic, where property was insecure and revolution followed revolution. We are told by Froude that there grew up a maxim, the converse of what was alleged in the United States, that the white man had no rights which the black was bound to respect. There is no fraternity possible, where the races are equal before the law, if the lower is in the ascendant. History seems to show that a country must be homogeneous in population in order to secure full equality of rights.

If the purity of races was to be preserved, perhaps the closest analogy to the condition of the Southern States was to be found in a near-by community where emancipation was only a few decades old. The West Indies had been the earliest outposts of the Spanish, French and English in America, and with the advance of their countrymen on the mainland the islands sank into comparative insignificance; but one could see in Jamaica what might happen on a larger scale in America. The British had taken the island from

the Spanish centuries ago, and Englishmen and Scotchmen invested and settled there, developing the tropical products by means of African slavery, the tropical method of labor. In course of time the sugar industry of Jamaica was unable to stand competition with the larger markets, and particularly the slave market of Cuba, while on the other hand in England there gradually grew up one of those moral movements which are so thoroughly Anglo-Saxon. The theoretical wrong of slavery was proved and slavery was abolished throughout the British dominions.

Compensation was made to the master for the property lost, but the abolitionists overlooked the most important part of the problem—that master and slave had to live together for the future, that the question of their civil, social and political relations had to be settled. In Jamaica the numbers of the two races were wofully disproportionate; the negroes had increased to over half a million, while the whites did not equal twenty thousand. Any settlement on the basis of manhood suffrage, therefore, would give the island over to the blacks and result in a second Hayti—no distant example, for it was separated from Jamaica only by a channel, and influences readily passed to and fro; while, on the other hand, if the whites had been left in control, the vast numerical preponderance of the negroes must have sooner or later given rise to struggles for political enfranchisement which could have only one result. Indeed in this very year 1865 a restlessness and rising of the blacks caused Governor Eyre to use severe repressive measures, which led to a lengthy investigation by the home government, and to the practical abolition of representative institutions. Probably this was the only solution possible where the negroes were so much in the majority, and it was possible because the island was a dependency, and over it Great Britain could, therefore, exercise and enforce an efficient colonial government. The real administration of the island from 1866 was in England, but the practical equality of whites and blacks before the law was carefully guarded.

The result could hardly be called satisfactory to the lover of human progress. Almost a score of years was to pass before Gladstone tried the experiment of political equality, but already civil equality was driving out the lesser race. Estates were being sold, or rather sacrificed, and the white population through emigration annually showed a falling off, while on the other hand the blacks increased. Such was the inevitable result of liberty and equality without fraternity.

The movement for the abolition of slavery was humanitarian. To theorists the ownership of property in man was abhorrent and awakened their strongest passions; but probably the controlling element with most men was the belief that cruelty was necessarily connected with the institution. In the United States, *Uncle Tom's Cabin* made its strong appeal not on account of any theoretical argument on slavery, but because purporting to show how its conditions practically worked out. With the abolition of slavery, therefore, the situation became entirely changed. The institution was gone which had all but rent the Union asunder, and both theorists and humanitarians were satisfied. In token of this the American Anti-slavery Society dissolved.

The problem arose, what was to become of the American freedman; but at least this was not necessarily humanitarian and even abolitionists might differ as to its solution. It might well be that if he now secured civil equality, an opportunity for self-development, the negro could claim nothing more of the higher race, that fraternity could not be forced. And it was after all primarily a race question. Originally mankind was one, but in the course of ages races had become so differentiated that it was practically impossible for two to amalgamate on any equal basis with promising results. The American soil itself had seen several experiments already. The Indian would not or could not adopt the white man's standard, and he was gradually driven from his old home and hemmed up in territories and reservations, much like the buffalo and other native animals

doomed to ultimate extinction. The Chinese were beginning to come and the time would be when it would be felt that even America was not large enough or liberal enough to accommodate them. Another race there was, but one which had an entirely different history.

The Jew has been a by-word among the nations. He was long a slave in Egypt; then, after brief glory under independent sovereigns, his nation was subject to every conqueror of the East. Driven out later from his home, the Jew was found in every country on the globe, with his marked features and characteristics, in all encountering dislike if not oppression. In modern times, nevertheless, he has become the prince of bankers and merchants, exercising a control far out of proportion to his numbers, and where the race once was crushed, its individuals often held the highest places. The Jew has won this unique position by retaining love for all the customs and traditions of his race, and at the same time being such an efficient workman as to become indispensable to his neighbors. By tenacity of race united with individual industry, sooner or later, in every nation and in every climate, Jews have ranked with the leaders of the world. In America he is an American, and yet also a Jew.

Measurably the same might be said of the Scotchman, the German, and some other races; for although they became American they retained their national characteristics and looked back with pride to their origin. Possibly the same might become true of the negro, and, if so, it would be by being individually industrious, collectively African, and ultimately American. In other words, development, if we can take the example of other races, must be along the line of industry first, and, if the Jew should be a model, with the distinct preservation of racial traits and brotherhood. It is true the process had been reversed, and reversed with success. The Scotchman, the German, and even the Frenchman had soon given up their racial characteristics, or remembered their origin only as one remembers childhood,

and America had become first in their affections. Even this, however, was more marked in the second generation, and moreover, as there had been no cleavage as to color or physical appearance between them and the Anglo-Saxons, amalgamation was easy and involved no change of race standards. If the negro should seek his advance along this line it might be a difficult road. What would be easy between races having little to differentiate them might be difficult where there is little in common at present and the barrier of slavery could be remembered from the past. The case of the Indian and Chinese was before them, and the example of the Jew gave a better promise in the other direction. A grasping for the fruits of a civilization which had been worked out by another race, an attempt to mingle socially and secure fraternity from the old masters, was hardly the policy dictated by history. Liberty was secure, civil equality could become secure, but social equality or fraternity was not to be forced.

From any point of view, therefore, a real reconstruction of the South was a difficult matter. It might be that the aptitude of the negro for civilization was overestimated, and to this some study of him, free in Africa and afterward slave in America, is essential. In any event, if the white man was as cruel and retrograde as represented by the politicians, the worst horrors were to be expected. Cromwell had somewhat the same conditions to face in Irish religious fanaticism, while in the South there might be a race fanaticism, and the force of both has in modern times been seen in the Boers. Cromwell's method was confiscation of land and a re-colonization by Protestants to such an extent that the north of Ireland contained practically a new population.

In America, immigration from the North and West to the South, where there was much unoccupied land, might produce somewhat similar results, and for a while there was a tendency in this direction. The difficulty was, however, that unless the immigrants came in large numbers they might prove rather an irritant than an influence. If they

should be few, it would be necessary for them to exercise great tact, even taking their own point of view as to the condition of the South and the nature of its inhabitants. If they should not be tactful, the greatest social and political opposition might be expected. What actually happened is not the least interesting section in the history of Reconstruction.

The story is of a Tenth Crusade, an attempt to force upon the old Southern States, dating back as far as any of the North and further than any in the West, conservative from the beginning, new ideals whose realization involved a complete change in state, church, family and industry.

We shall find that the South was made up of men and women of the same blood and lineage as the North, and when the military force was removed, before which the weaker section had bent, they could show themselves as stubborn as their northern brethren. We shall find that they resolutely refused to consider themselves a *tabula rasa* and showed on the contrary that they were living communities, which could perhaps absorb some new principles, but refused to assimilate others. They had been defeated in battle, but to their minds at least there were fields over which even the military could not march. If they believed that the purity of their homes was threatened as well as the efficiency of their political institutions, it might well be that there would be a counter-crusade, and one for home and State could be no less intense than one to relieve the oppression of another race. The new-found nationality of the country could go far in expression, but the Anglo-Saxon principle of self-government could not be entirely crushed.

Reconstruction was of the whole Union and in it we study a period in the history of the United States as one country. The main steps were three in close succession, and they are marked by as many amendments to the Federal Constitution. The earliest was the abolition of slavery, embodied in the Thirteenth Amendment as adopted, and we may think of this as due to Lincoln himself. He did

not live to see its ratification, but he had long urged it and rejoiced at its adoption by his own State of Illinois as well as others. So far as the South was concerned, it was to be the principal element in the Restoration attempted by his successor, Andrew Johnson. Many of the States during that process abolished slavery by their own constitutions, but this amendment placed the policy beyond repeal, for it incorporated abolition in the Federal Constitution. The second step might be said to come with the proposed Fourteenth Amendment, whose original design perhaps was to make the negro in some sense a ward of the country, but in order to do this the measure had also to create a national citizenship. This removed the question of Federation *vs.* Nationality forever from the field of practical politics. The battle over the amendment more particularly accompanied the attempt which we shall find made by Congress at Southern Reconstruction. A third step in the development was marked by the proposed Fifteenth Amendment, designed to establish a national standard for suffrage.

The struggles leading up to these three great measures marked, at least on the political side, the period of Reconstruction. The movements in the church, in the family, and in industry have no such guide posts and have been less investigated; but they existed, and were acute. The Freedmen's Bureau and Bank on the one side and the Ku Klux revolt on the other affected economic and social matters almost as much as political, and the period presented yet other efforts and tendencies not the less real because they were not always understood.

There will be a regular course of development in our study. First, we shall have to consider the situation of the South at the close of the War, picture, if we can, its condition, so as to understand the material out of which and with which the social revolution must be effected, with a glance at what had been accomplished during the war. Then we shall consider the political restoration of the States attempted by President Johnson, and his policy. Going along

with this were two attempts to regulate the negroes in their new found freedom, and that from the Federal side was hardly less important, and certainly more lasting in its effects, than that of the restored States. This new economic legislation will prove to be the dividing point of our history, for it was the dissatisfaction with it which, at least nominally, led to the wreck of the presidential plan of reconstruction.

The Federal Congress might assume that reconstitution of the Union was a legislative and not an executive function, and we shall enter upon a troubled field, the centre of our interest. In order to understand how the congressional attempt to equalize whites and blacks would work out it will be essential to make a study of both races—the Anglo-Saxon in the South, the negroes in the native freedom of Africa and in the enforced servitude of America. If the course of the blacks was to be up from slavery, everything depended upon their native powers and how these should be guided. The transition stage was to be under the supervision of the military, and the restored South must be broken up again into military districts. President Johnson was himself the greatest obstacle to reconstruction, but the attempt to remove him was merely doing on a higher plane what we shall find a daily occurrence throughout the South. And then after new constitutions have been framed for each of the Southern States, after they have been declared adopted, a process needing more time in some places than others, we shall have occasion to judge the tree by its fruits, and study in what had been the several military districts the civil governments administered by negroes backed up by bayonets. In this saturnalia, the Freedman's Bureau and its political arm, the Union League, were to play a leading part, and the Freedman's Bank to leave its ineffaceable impress. Reconstruction will be found to prevail not only in the political and economic spheres, but in society as well, and reconstruction in the churches, both white and black, will furnish a fruitful and almost untouched theme.

In the Border States we shall find many of the same steps taken as in the States lately in rebellion, while in the North political reconstruction will be the principal feature. Reconstruction was of the whole Union, but the more drastic measures will be found limited to the South. There, over against the Union League was the Ku Klux Klan, and even if that should cease to act in public, the Anglo-Saxon love of self-government may find some other means of resistance, and a counter-revolution, retaining some of the good of reconstruction, and rejecting its evil, may be sought and perhaps accomplished. If it be that the struggle by which nationality is achieved and self-government restored be finished in time for a common celebration of the country's centennial, there will be a fitness of things not often realized in history.

Whatever the outcome of our study, such are some of its problems. It may be that we shall be lost in a labyrinth, it may be that we will find some thread leading to daylight.

CHAPTER I

THE PROSTRATE SOUTH

THE greatest of civil wars was over. The Confederate armies had at first extended from the Potomac through Kentucky to Missouri, and then had gradually been forced back to the line of the Alleghanies and Arkansas; the Confederacy had been cut in two by the Mississippi operations, and at last Sherman's march to the sea had drawn a new division line between Taylor and Kirby Smith in the two western sections and Johnston and Lee in the east. When the end came in the successive surrenders of April and May, 1865, the flag of the Union waved again from the Potomac to the Rio Grande, from the Ohio to the Gulf. The collapse was complete. There was no longer any resistance. Even guerrilla bands were unknown. Federal garrisons occupied all important points. Federal fleets rode safely at anchor in every port from Hampton Roads to Galveston. The Confederate flag had disappeared except on the *Shenandoah*, which, until fall, was out of reach in some unknown part of the northern seas.

In looking over the South in order to understand the conditions out of which must come her future, the first thing which attracts attention is the absence of all civil government. The terms of surrender directed returning soldiers to respect the laws at their homes, but contrary to the practice in international wars, local officials, and hence practically civil law itself, were not recognized. General

Order No. 100, promulgated by President Lincoln on April 24, 1863, provided that all laws were suspended upon occupation by an invading army of the United States without the necessity of a proclamation of martial law. Under this order it was held that there were no local authorities in the South, for the end of the war was not proclaimed for a year after the surrender. There was undoubtedly no general government left to the conquered, for the Confederate organization had gone to pieces. The president had been captured and put behind locks and sentinels at Fortress Monroe; the vice-president had been taken by force from his home and imprisoned in Fort Warren, in Boston harbor. The State governments were also regarded as illegal, and the entire country was left without a centre about which to rally, whether for good or evil.

The refusal of recognition was not confined to what might be regarded as the treasonable acts of the State governments; they were prohibited from doing anything, legal or illegal. The governments thus obliterated were those which had from the beginning been the expression of the will of the States. Some of them were older than the Union itself. They had legislated for every interest in life, economic, social, and domestic, as well as political. They had built up these communities to what they were, had severally been the forum in which had been trained some of the master minds of the country. Even during the time of the Southern Confederacy these governments had to some extent preserved an independence worthy of their best days. North Carolina, under Governor Vance, had criticised and almost resisted a number of acts of the government at Richmond, and Georgia, under Governor Brown, was toward the last in a state of antagonism to President Davis. It is true these movements were not in the direction of a return to the Union; but they at least showed that the people were not a unit in all things, that Davis did not wield a Solid South. Not only had executive and legislative functions been regularly performed, but the courts had

been open and the judiciary retained its high rank. The decisions of the supreme courts of the several States still survive and throw light upon all questions of the day. If there was less litigation, it nevertheless related to every form of business and profession, for all had been in exercise. War had not ended civil affairs except in the actual zone of military operations; it was the return of peace that struck down all semblance of civil government and established anarchy.

Richard Taylor, practically the last Confederate general to surrender, after conference with his captor, General Canby, had advised the governors of Alabama and Mississippi to call together the legislatures of their States to take measures for conventions to repeal the ordinances of secession and to abolish slavery. This, Governor Watts and Governor Clarke, in May, undertook to do,—and by instructions from Washington they were imprisoned for abetting a new rebellion. When Governor Joe Brown issued a similar proclamation in Georgia, General Gillmore promptly annulled it, as he had annulled a call in April by the president of the Florida Senate for the election of a successor to Governor Milton, deceased. The Union forces quite generally captured and imprisoned public officials of the States as well as of the Confederacy, and many Southern leaders were driven into hiding. The courts, as, for example, the Alabama supreme bench, had no spring terms. Absolutely no government existed during the spring and summer of 1865 except military rule by the conquering armies, which was confined from the nature of the case to small circuits about the various posts.

This, however, was not the worst. In point of fact there remained little to govern, for all government is designed to protect people in the enjoyment of property, and property had almost ceased to exist. The South had always been mainly agricultural. Corn was raised everywhere, while other staples were peculiar to different sections. Thus in Virginia and Carolina tobacco flourished, in South Carolina

and Louisiana rice, and in Louisiana the sugar-cane also; while from Carolina to Texas cotton was the mainstay of the country. These products had been raised throughout the war, although cotton was exported with ever-increasing difficulty on account of the blockades. The rivers had originally been the principal channels of transportation, but all boats had long since passed into military control, and during the last stages of the war were destroyed as the armies fell back. April

Railroad development before the War had hardly kept pace with that of the North. It was before the day of great systems, and the companies operated railways between neighboring towns only. West of the Mississippi there were no railroads of importance, and even to the east they hardly passed the stage of reinforcing the river traffic, and ran where water did not reach rather than competed with steamboats or superseded them. At the same time connecting roads made up a quasi system after the Confederate government assumed control for military purposes. Railroads had constituted the second and third lines of defence when the armies in the West had been pushed back from Cumberland River. From Memphis the Memphis and Charleston Railroad extended to Chattanooga, and thence by the East Tennessee line communicated with Carolina and Virginia; while further south was the third line of communication, from Vicksburg on the west through Meridian, Montgomery, and Atlanta to the seaports of Carolina. North and south ran the New Orleans and Great Northern from New Orleans to Jackson, and crossing it at this Tennessee point was the Mobile and Ohio running from Mobile to Columbus just below the mouth of Ohio River. Shorter than these, but still important was the State-owned Railroad of Georgia from Savannah through Macon to Atlanta, where it had connections to Chattanooga and beyond. The Carolinas also had roads from the seaboard into the interior, as the South Carolina Railroad from Charleston through Augusta to Atlanta; and Richmond was an important railroad centre as

well as the political capital. The Chesapeake and Ohio extended westward from Norfolk by Petersburg to Lynchburg, while other roads led from Richmond to the north and west. It was the necessity of holding the Richmond and Danville, the one remaining line to the southwest, that caused Lee to abandon the Confederate capital and strike for the west.

The railroads east of the Mobile and Ohio line and south of Richmond and Chattanooga, although much out of repair, owing to the impossibility of obtaining material for betterment, remained intact until the last months of the War, and were the means of coöperation between the armies of Northern Virginia and of Tennessee, besides bringing up supplies for both and carrying cotton to the sea for shipment by blockade runners. Sherman's march in Georgia and operations in Carolina and Wilson's raid in Alabama and Georgia seriously crippled all this middle belt, and at the surrender there was probably no road uninjured outside of North Carolina. Thus, for some time after the war, Columbia was in a wilderness, with dead ends of railways pointing toward her ruins, reached only by hacks and impoverished stages over a score or more of miles between. The rolling stock everywhere was worn out, the tracks, bridges and roadways were torn up, and the very personnel of railroad service had almost disappeared. Except as giving a right of way for future upbuilding, the railway system of the South was less a skeleton than a shadow of the past. And this rebuilding,—how could it be done by bankrupt owners and in bankrupt communities? Yet it must be accomplished, for the pulse of civilization can best be felt in the rate of speed of intercommunication.

To what had been the original Border States, Maryland, Kentucky, and Missouri, could be added West Virginia and Tennessee as having been now so long under Federal control that a quasi-peace had simplified the outlook. War had indeed visited them, but it was further in the past and some kind of government existed. Even to these States, however, came home the returning soldiers and introduced

new elements. In all, the majority of the white citizens felt alike, and the future might have problems for them also; but it was further south that suffering had been greatest and the future was more ominous. To the coast States we will look at present.

The destruction of private property, particularly stock and movable articles, had been general over all the South, but Sherman's march to the sea had brought the climax of ruin. What the Confederates had not impressed, the Federals had destroyed. The zone of military operations from one end of the country to the other was a wilderness, and the strip of land between the armies in the interior and the coast, which the fleets had laid waste, had been continuously narrowed. And now even that strip was ruined too. Everything which represented capital had vanished. Slavery had gone and with it the fortunes of many. As the Southern armies had gradually been pushed back, the confiscation acts of the United States Congress had come into force, and at the end many plantations whose owners were in the army or otherwise within the Southern lines were occupied by national agents. The early occupation of beautiful Arlington, the home of General Lee, overlooking the national capital, and its use for the burial of Federal dead, is a striking but only typical example of appropriation of private property. All this might be legitimate, for one of the ablest Federal generals has defined war as hell; but if on the one side some thought no punishment could be too severe for traitors, on the other the ruin of homes and institutions created bitterness of soul boding ill for the future.

The mothers and daughters, the children and old men had remained at home, making crops and administering the households with ever increasing difficulty. Before the surrender stragglers had wandered homeward. Of the one hundred and seventy-five thousand nominally in the armies in March, hardly half were in the field at the time of the surrenders of the next months. Admiral Semmes in a trip from Texas to the Potomac, on his return after the sinking

of the *Alabama*, records how much desertion and destruction he witnessed; and with each month nearer the end they became worse. We may blame these men or we may not, but to many, during the months when armies could not repel the invader laying waste the homes behind, the call back to the dear ones was stronger than patriotism. In the months following the surrender, thousands were the returning soldiers, working their way as best they could, without arms, many on foot, not a few yielding up on the toilsome march the life which the battle had hardly spared, and making up the number of the three hundred thousand Southern dead. The Confederate soldier gazing on the charred ruins where his home had been was no ideal picture, but a reality witnessed in hundreds of places during that early summer; even when he found his home and his own, sometimes it was he who gave way, he who must be watched and nursed instead of taking care of those for whom he had fought. Broken health was only too often the result of campaigning, and little wonder was it that those who were to restore the commonwealths should enter upon their task with bitterness of soul. Hundreds had crossed the Rio Grande rather than surrender, and now not a few so despaired of the future as to emigrate to Mexico and South America, although Lee used his influence to prevent the movement from becoming general. Such was the scene south of the Potomac while the Federal armies were making their triumphal parade at Washington, and being mustered out to return with acclamations of a grateful country to proud and happy homes.

It would be difficult to say what in the first few months was the precise feeling of the Southern people toward the United States, into which they had now been forced back. There might be no love for the Union, no loyalty, as the expression was, for almost to a man and a woman the Southerners had embraced the Confederate cause, and, as Huger said of South Carolina, would not now play the hypocrite and pretend repentance. But they were at least

heartily sick of war and its horrors, and relieved, if not glad, that the end had come. As the conversions of the Huguenots in France and the Jews in Spain were due to fire and dragonnades, so Southern conversions from the belief in secession and revolution as practical remedies were due to invasion and in particular to Sherman and Hunter. The emancipation of the slaves was accepted unreservedly, and by many almost with thankfulness that the question was forever dead. General Lee, under congressional examination a year after his surrender, said that there was no disposition anywhere to take breath and then to renew the struggle even though there was offered the alliance with France or England once so desired, although he could not tell what circumstances might produce. It was a transition period. The South felt that the North could afford to be generous. Future treatment must determine whether love or hatred to the Union would develop.

We have seen that civil government no longer existed in the South, that family ties were broken; and so the only fairly perfect bond remaining of the trilogy making up human civilization was the church. And the church too had suffered in the war, but many godly pastors remained throughout it, ministering to the distressed in mind and body, and praying for the success of Southern arms,—for the pulpit was occupied by men of like passions with their brothers.

During hostilities church property was taken away from disloyal pastors. Thus at Memphis, in 1863, the Wesley Chapel, the property of the Methodist Church, was handed over to Bishop Ames, because there was no loyal minister appointed by a loyal bishop. Next year the Baptist churches generally were turned over to the American Baptist Home Mission Society, which "had the entire confidence of the War Department, in the matter of fostering the loyal sentiment of the people."

When the officers commanded, as at Natchez in 1864, that the pastors of all the churches should pray for the

government of the United States, it was to them as to those who were commanded to sing by the waters of Babylon. The attitude of Bishop Wilmer, of Alabama, was the most striking *post bellum* illustration, and yet he voiced only the general sentiment when in his circular of June 20, 1865, he declared that while, because of the fortune of war, prayers should no longer be made for the president of the Confederate States, the clergy should not pray for the continuance of a government founded on force. The bishop was suspended, as were all others like-minded, but the circular was never revoked. Finally, the commanding officer himself recalled his order, and, as he expressed it, left the bishop to that "remorse of conscience consequent to the exposure and failure of the diabolical schemes of designing and corrupt minds." This punishment, however, was not severe enough to shorten a long and useful life.

But the half has not been told. Slavery had in one way or another been the cause of the war, and emancipation was the direct result of that struggle. It was, perhaps, a fortunate result, although more fortunate for the whites than for the negroes. At the same time, under the most favorable circumstances, it must cause immediate distress. It wholly subverted the economic basis of Southern society. Slavery was not originally sought by the Southerners, but they had been reconciled to it until it acquired such a hold that, perhaps, nothing short of a revolution could destroy it. And now four millions of blacks, many of them but half removed from savagery, were told that they were free, told too often that they were free to do anything they wished. While generally they had been contented with their previous lot, there was no question that their escape from the overseer's rule attracted them now as greatly as a holiday does children. To them it was freedom from labor, freedom from all restraint, and the first step many took in their new life was to wander away from their old homes. They left the plantations and flocked to the military posts or to the city streets. As General Lee expressed it, to them the present

appealed more than the future. The surrender had come at a time when the crops must be planted. At first the new Freedman's Bureau attempted to regulate affairs, but we shall find that its officials, even when honest and painstaking, had more trouble in making the negro, enchanted with freedom, keep his part of the new contract—even when he was willing to make it—than the employer who needed him. The new arrangement was necessarily on shares, for money was scarce, but as the seasons were unpropitious, all things conspired to make the crop of 1865, the first under freedom, the worst since the war began.

Some of the new friends of the negroes taught them to expect a division of the lands of their old masters about Christmas, and visions of forty acres and a mule for each made glad their hearts. Northern speculators were known to sell them red and blue stakes at a dollar apiece, to be placed at the corners of tracts anywhere on the white man's land. They were encouraged to leave the churches of their masters and establish their own denominations, and revivals and camp meetings were the order of the day. With laughter and song and government rations the summer passed, and, when Christmas went by without the new socialism being realized, starvation stared in the face those who had not worked. During the war the mortality among negroes, even in the Northern armies, had been twice as great as among the white troops. And now the child-race was face to face with the problems of manhood. If the Anglo-Saxon masters were staggering under the new conditions, what would become of the careless Africans?

The coming winter might tell the tale for both races, but the excesses of the negro brought results even earlier. Augusta was not the only place in which the mortality among the blacks increased several hundred per cent, and the old proportion of two deaths among the whites to one among the blacks was reversed. For the future of both races, which were to live side by side under new conditions, much depended upon the control of these black children of nature.

There was no general hostility to them among their white neighbors, although necessarily there was regret and sometimes fear of the new conditions whose outcome no one could tell.

The old lesson of Hayti had never been forgotten, for many of the refugees from the West Indian massacre had settled in the South. The emancipation of the negroes by operation of war revived in some quarters the old fear of the same result, modified in form only. The freedman, without money or land, naturally inclined to idleness rather than to labor, now frequently bearing the firearms denied in slavery, could but seem a menace to the community. His white neighbor wished him well, but prudently prepared for eventualities. The situation moreover was threatening in that as the law knew only whites and slaves, there was no criminal law against freedmen, even when the old codes were recognized by the military. The very class most needing regulation was without law.

Southerners were naturally far more concerned for themselves and their families than for the future of negroes freed by force. There was a general feeling that emigration of the bulk of the race to Liberia or elsewhere would be the best solution of the difficulty, although some negroes would always be required, and the industrious need have no apprehension. Much of the agricultural work had been performed by the blacks, for labor in the hot cotton and tobacco fields, in rice swamps and amid the sugar-cane, was hazardous, if not fatal, to the whites. The negro had always been a useful laborer, and there was no reason why he should not so continue if he would.

The civil wars in Ireland, both in the time of Cromwell and of William III., resulted in a general confiscation of estates and the building up of a Protestant district in the north by immigration from England and Scotland. So in the American Civil War there had been confiscation acts passed on each side, which had been put in operation to a greater or less extent as the respective armies advanced or

retreated. Toward the end, however, there was a great practical result from this. General Sherman had reserved and set apart for the freedmen the islands from Charleston south, the abandoned rice fields along the rivers thirty miles back from the sea, and the country bordering the St. John's River in Florida. His special Field Order No. 15, issued from headquarters at Savannah on January 16, 1865, said: "At Beaufort, Hilton Head, Savannah, Fernandina, St. Augustine, and Jacksonville the blacks may remain in their chosen or accustomed vocations; but on the islands and in the settlements hereafter to be established no white person whatever, unless military officers and soldiers detailed for duty, will be permitted to reside; and the sole and exclusive management of affairs will be left to the freed people themselves, subject only to the United States military authority and the acts of Congress." The order went on further to say that whenever three respectable negroes, the heads of families, selected a locality, the Inspector of Settlements and Plantations would give them a license and see to a proper subdivision so that each family should have a plot of not more than forty acres of tillable ground, and in the possession of this the military authorities were to afford them protection. It was even provided that captured steamers would be detailed to supply their wants and sell their products. A regular officer was appointed as such Inspector of Settlements and Plantations, "whose duty it shall be to visit the settlements, to regulate their police and general management, and who will furnish personally to each head of a family, subject to the approval of the President of the United States, a possessory title in writing, giving as near as possible the description of boundaries; and who shall adjust all claims or conflicts that may arise under the same, subject to the like approval, treating such titles altogether as possessory." The first to hold this office was Brigadier-general R. Saxton.

A large number of negroes accepted the invitation and settled in the district, so that the lands were practically confiscated and their white owners ousted. It was not

known to what limit this policy might be pushed. No one could foresee what would happen next, and there was great uneasiness throughout the South, particularly where the negroes were numerous, as to what might be done in the way of settlement of the freedmen. Sherman's order seemed to point to the establishment of a black commonwealth on the seacoast, perhaps some time to become a separate State practically cutting off Georgia, south of Savannah, from the sea. There could be no foretelling how far interest in these wards of the nation might go, nor where such colonies might be established. The unrepealed confiscation laws afforded a ready means for any experiment that might be desired, and the creating of West Virginia showed that new States could be carved from the old.

As the South was essentially agricultural the economic changes would be felt most in the country, for the towns were not to be compared in size or civic development with those of the North. The largest of the Southern were Baltimore, St. Louis, Louisville, and New Orleans, and of these Baltimore, St. Louis, and Louisville had been occupied by the Union forces since the beginning of the War, and New Orleans had been early captured. For this reason they had suffered little injury and could be centres of growth. But, except New Orleans, they were on the border. Of the more southern cities, Atlanta was a ruin, Chattanooga and Nashville had greatly suffered, and Richmond, Augusta, and Charleston had been burned at the time of their evacuation. Perhaps the seaports were the more important, and Wilmington and Mobile, the last ports held by the Confederacy, were the only cities east of New Orleans which had not been greatly injured.

Except from the stagnation due to the cessation of almost all forms of business, Mobile had not suffered greatly during the war, and upon its occupation by General Granger, the outlook immediately improved. Such cotton as remained up the rivers and railroads was brought down for shipment. While prosperity seemed at hand, suddenly on May 25th,

about dinner hour, Mobile was suddenly shaken to its foundations as by an earthquake and terror reigned supreme. The cause of the convulsion was soon discovered. The ordnance stores surrendered by the Confederates, not only at Mobile, but in the interior, had been brought to the northern part of the city, and, handled carelessly, had suddenly exploded. Officers, soldiers, and negro employés were blown into atoms. The explosion resembled the eruption of Mount Vesuvius, throwing a mass of flame, smoke, and débris high into the air. People a mile away were knocked down and some were killed by the concussion. Windows over all the city were shattered. The noise was heard distinctly at Fort Morgan, thirty miles away at the mouth of the bay, and on railroad trains fifty miles in the interior. One would never suspect that a building had stood where the explosion occurred. In the place of a stately brick warehouse was a hole ten feet deep, and for a half-mile in all directions warehouses were blown down. The property loss was hardly less than a million dollars, and hundreds of people were killed or injured. The scenes of suffering for a while were indescribable, and even yet are not forgotten. This was, of course, no wanton act, but in the minds of citizens it associated carelessness, if not recklessness, with the military, despite the favor which some of the officers had won in social life.

The general industrial situation was much the same throughout the South. The activities which distinguish the city from the country are generally those relating to exchange rather than production,—to commerce, not to agriculture. The manufacturing side of city development was almost lacking at the South. Banks, wholesale houses, railroads and steamer terminals, and the resulting activity of social life in schools, churches, and along intellectual lines make up a typical city. All these things had disappeared during the prevalence of war, and toward the end it was a struggle for existence, perhaps keener in the town than in the country, where agriculture supplied at least the raw materials for

living. All urban industries must now be built up anew, and the questions of sites and supposed natural advantages might require reinvestigation. What had suited the old conditions might not be the best under the new.

Interest had centred in Richmond perhaps more than in any other city, but there was one other town that was regarded as even more the embodiment of secession. This was Charleston. There had been developed the striking characteristics which differentiated South Carolina even from the other Southern States. There Calhoun was buried. From Charleston Fort Sumter had been fired upon. It was Charleston which had inspired the first secession ordinance, and within this city that measure had been adopted.

The city had long resisted attack, and it was with a satisfaction hardly equalled by any other event in the War that the Northern forces occupied Fort Sumter, and, under Henry Ward Beecher, held a memorial service on its ruins. Sherman went to Charleston after his march to the sea, walked about the place so familiar to him, noting desolation on every hand—to his mind a fit punishment for the crimes of the traitor city. "A city of ruins, of desolation, of vacant houses, of widowed women, of rotten wharves, of deserted warehouses, of weed-wild gardens, of miles of grass-grown streets, of acres of pitiful and voiceful barrenness," wrote Andrews to the *Boston Advertiser* and the *Chicago Tribune*, "that is Charleston. . . . The beauty and pride of the city are as dead as the glories of Athens. . . . How few young men there are, how generally the young women are dressed in black. The flower of their proud aristocracy is buried on scores of battle-fields."

The observant correspondent noted that at first scarcely a white woman could be seen on the street or even at the doors and windows; that later they, more than the men, expressed contempt for the negro soldiers, and scorn for Northern men appeared even in the swing of their skirts when passing them on the sidewalk. Consonant with the general mourning costume, one could see at sunset not a

few pale and pensive faced young women of exquisite beauty, and of an evening hear not infrequently touching melodies or ringing, passionate Southern airs from the parlor of some roomy old mansion. He visited the neglected tomb of Calhoun, but did not know that, to escape the desecration feared from invaders, the remains had been removed to a place of greater safety.

In Charleston perhaps more than elsewhere the people were unwilling to accept the new conditions. The correspondent even thought that the War had loosened the former ideas of commercial honesty, when more likely, the indications he noted should have been attributed to the fact that old debts could not be paid because of present poverty and needs. Even in the first summer, Northerners were coming South and at Charleston renting stores which the inhabitants were too poor to stock. It looked as if the dazed town might be taken possession of by invading merchants, just as it had been already by invading soldiers. The local feeling was one of antipathy, but without desire to do injustice. The testimony of General Lee, a little later, showed that throughout the South everything depended upon the Northerners themselves. If they were considerate, they would be well received; if they made themselves obnoxious, they must expect other treatment. The correspondent prophesied that we should never again have the Charleston of the decade previous to the War, but, to his mind, incoming Northerners might create there a better city.

In spite of the blockade, there had been no lack of foreign visitors to the South, even during the War, although, of course, no Northerners had visited the section. With the end of hostilities their number was multiplied, and many were from the conquering section, some correspondents, some settlers come to make money. It has been said that a traveller carries his atmosphere with him, and certain it was that these visitors were apt to find what they wished to see. The newspaper comparison of the stricken South, her soldiers returning home at first unfit for labor, her old

laborers in shiftless freedom, with safe, trim New England might, perhaps, lead one to paraphrase the remark made by a judge on Lord Campbell and exclaim that correspondents had added a new pang to surrender. Sometimes despair might resemble sullenness, but the general testimony was that all classes were resigned to the situation and the whites at least were absorbed in the pressing question of support. The feeling was that whatever the conquerors required would have to be done; and so there was no use of much discussion. The main problem was one of bread and meat, and, complicated by the economic change of base, it was itself enough for ordinary minds.

The crucible of war had united all classes in States in which the heat of political discussion once had been probably greater than in any other part of the country. With the removal of that enforced temporary fusion, the old feeling and the old spirit would tend to revive as soon as the question of subsistence could be settled. In South Carolina there was the question between the coast and the up-country people, but everywhere the old Whigs were inclined to be conservative and generally more apt to accept the new conditions than the old States Rights Democrats. If there should be no outside pressure, it was more than likely that the old forms of political cleavage would reappear, unless the questions of the day caused a re-alignment of parties. But this was for the future. It was generally felt that mere politics could wait.

The restoration of the South must be in some respects a re-creation. Her colonization had been effected from the seacoast, followed by gradual immigration to the interior, the great obstacle being the wilderness, the chief opponent, the red man. The work now before the people was no less strenuous in character. It is true that population had extended over the major part of the several States and that the red man had practically disappeared; but invasion by the Northern armies had destroyed almost every material thing that made up the old civilization, and everything must

begin anew. For the red man of the olden times was substituted the black man of the modern, set free from the only form of labor that he knew, half alienated from his old master and associations. To the white man all was lost save honor and energy; but as the one made sacred the past, the other might save the future.

A readjustment was impending not unlike that which happened upon the fall of the Roman Empire. Old institutions had perished and fresh elements had been introduced. The question now was how to work out the future with new means and upon the foundations of the past. It was one which might tax the wisest. Even General Lee, now become a college president, could only suggest patience and industry. If there should be interference from without, the problem would be not only more complicated, but the reaction upon the white race on the one hand and the black race on the other might introduce yet other elements of uncertainty and perhaps of danger. The best security for the future was that which had been the foundation for growth in the past. There was hope in the fact that Anglo-Saxon communities were concerned. They had pride of race and capacity for self-government.

The foundations of the social structure,—the family, the church, the state,—were similar over all America. Slavery had made the chief difference, for it had condemned the South to be agricultural, and thus put her at a disadvantage with the North. Industrial uniformity tends always to cause a monotonous civilization; and the South had lacked manufactures, which even more than agriculture develop commerce and exchange, with all their ramifying influences. Slavery was now gone, and with it not only had gone over two billions of dollars invested in the slaves, but that quondam capital had been replaced by an untried kind of labor. Would the Anglo-Saxon prove equal to these new conditions as he had to all new conditions in the past? Could the natural advantages of the South now be developed? Was it possible that the calamity of war might

be a blessing in disguise? Every war, as a noted German writer suggests, is not only a historical event itself, but always makes a point of departure for new growth. He had in mind the conqueror, perhaps as illustrated in the Franco-German War. Might not this be true of the conquered also and the South establish a new principle in history? Would the attempt be a peaceable development? Would the parties who must do the work act together?

The Union had been saved and reorganization must affect the whole country. A constitutional amendment must be as valid at the North as at the South, and thus, our concern will be with the United States as a whole. At the same time, any reconstruction at the North would not only be simple but would be favored and carried out by the vast majority of her own people. At the South, on the other hand, the people were in the first place divided into two discordant races, and the place where reconstruction must be worked out was desolated by war. Any reorganization of the South, therefore, must be not only political, but cover social, religious and industrial relations as well, and to the South must much of our attention be directed. There the stage was prepared. On the one side the southerner, either aristocrat or poor white, now equal in misfortune; on the other, the half dazed, half exultant freedman. Between them a few northern immigrants, beginning to look around and always increasing in number, while for the present the Federal soldier was in control, respected by all. What parts would they each play in the coming drama?

Absorbing as may prove the answers to these questions, they cannot be understood without considering what had already been attempted as the Southern armies were gradually driven back and the need had come of reorganization of the districts and States successively occupied by Federal forces. Let us turn, therefore, from the present, when the land is lying quiet as with the stillness of death, to that time when some portions of it, even amid the alarms of war, had been reorganized by the constructive statesman, Abraham Lincoln.



CHAPTER II

STATE REORGANIZATION UNDER LINCOLN

THE Monroe Doctrine is very flexible and sometimes assumes unexpected shapes; but that it could tend to the restoration of the United States after the Civil War was an unsuspected function. The invasion of Mexico by the French and the inauguration of the empire of Maximilian has had its political and romantic side and, strange to say, it was to have an international effect and bring about the Hampton Roads Conference. Francis P. Blair, in some mysterious way, was the bearer of overtures in which Davis had spoken of a desire for peace for the two countries, North and South, and Lincoln of a desire for peace for our one common country; and, finally, A. H. Stephens, R. M. T. Hunter, and John A. Campbell were duly accredited and met President Lincoln and Secretary of State Seward, February 5, 1865, on the *River Queen*, anchored off Fortress Monroe. Their discussion was informal, but cordial, lasting several hours. As the Confederacy was almost at its last gasp and the Union sure of success, it might be that this boat would prove a messenger of peace on ocean billows.

A few days afterward, Lincoln, on request, made a report to Congress in which he set forth the correspondence, but of the interview said only that in effect the conditions were insisted on which had been named for Seward's guidance before the president determined to be present, *i. e.*: "1. The restoration of the national authority throughout all the

States. 2. No receding by the Executive of the United States on the slavery question from the position assumed thereon in the late annual message to Congress and in preceding documents. 3. No cessation of hostilities short of an end of the war and the disbanding of all forces hostile to the Government." The other party, he says, did not admit that they would ever consent to reunion, and yet, on the other hand, they equally omitted to declare that they never would consent. They favored some other course of action which might or might not lead to reunion, but which Lincoln and Seward thought would amount to an indefinite postponement.

We have a thorough account from "the other party," drawn mainly by John A. Campbell, late a justice of the Supreme Court, a gentleman of the highest standing. He tells us that the excuse for the conference was to see if the two contestants could unite in expulsion of the French from Mexico, inasmuch as its occupation by them was opposed to the Monroe Doctrine and equally threatening to both sides in the American Civil War. Stephens hoped for some result from the proposition, but there seemed to be insuperable obstacles in the way of carrying it out. The hope was that if such a plan was adopted, and the two armies fought side by side against the common enemy, some means might be found finally to adjust their differences.

The discussion took a wide turn, and the upshot of it was that Lincoln would agree to nothing except substantially an unconditional surrender of the Southern people. He, however, repudiated the word submission, as he said he wished nothing humiliating; and so far as he was able, as in the remission of penalties under the confiscation acts, he would deal liberally. The submission would consist only in permitting Federal officers to take charge of custom houses, post offices, and similar places, and proceed with the discharge of their duties. He evidently meant to intimate that he could not guarantee the course of Congress. Granted a restoration of the Union, he would do all in his

power to prevent harshness, but, without defining them, he clearly recognized that there were limits to his power. As commander-in-chief he could make a military convention, but this was not commensurate with the reorganization of the Southern States. He would not even consent to an armistice to discuss further terms. There being therefore no common meeting ground, the conference broke up, in good humor possibly, possibly also in sadness, and, as Lincoln afterward expressed it, ended without result. He probably foresaw the collapse of hostilities, which came within two months afterward, and felt no necessity for fixing terms in advance. He even denied Grant the right to discuss with Lee other than military questions.

The aspiration of the South was plain. The Southern people, whether they be regarded as States or Confederacy, had sought independence; on the other hand, the Northern had sought to restore the Union. The theory, however, upon which the North began the contest was not that prevailing when it ended, and it is instructive to follow the changes both as a matter of history and as an indication of what might be expected. It was an evolution directed by no one man, foreseen by no one man, and yet its steps and purposes are clear enough now that we look backward.

The withdrawal of the Southern members left the new Republican party supreme in House and Senate, and the policy of the North was outlined immediately after the Bull Run disaster in what are called the Crittenden resolutions, as follows:

"Resolved, That the present deplorable civil war has been forced upon the country by the disunionists of the Southern States now in revolt against the constitutional Government and in arms around the capital; that in this national emergency Congress, banishing all feeling of mere passion or resentment, will recollect only its duty to the whole country; that this war is not prosecuted upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with

the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution and all laws made in pursuance thereof and to preserve the Union, with all the dignity, equality, and rights of the several States unimpaired; that as soon as these objects are accomplished the war ought to cease."

These were adopted almost unanimously, being opposed only by such extremists as Thaddeus Stevens, an abolitionist and unionist prepared to stop at no terms necessary for success of the Northern arms. If there was to be an evolution, however, it might be an evolution toward this man, who at least had firm convictions and was resolute to make them realities.

Events were to move rapidly. Even that fall, when Congress reassembled in regular session, and an attempt was made to reaffirm these resolutions, Stevens was not alone in opposing them. The result was that they went to the table, and there they ever afterward slept.

The platform upon which the war was begun, however, remained that of President Lincoln. He was unwilling to fix terms in advance which results might show to be improper. He had rather act in accordance with the circumstances surrounding the particular case. Thus, at the outbreak of the war, he or his Cabinet officers, with his assent, were active in preventing by force the secession of Maryland and Missouri. These States were virtually occupied by the United States forces and their legislatures were prevented from acting. Almost the same thing was true also of Kentucky, Lincoln's native State, whose defection, he declared, would make the job on hand too large. Soon the success of the Union arms in western Virginia, and afterward in Tennessee and Louisiana, required some plan of restoration of States to be formulated. What was done now might furnish precedents later.

First in time and probably first in importance was the question in regard to Virginia. Virginia was the most noted of the Southern States, and yet was in a measure divided

against itself. Of its one hundred and forty counties, thirty-nine lying in or to the west of the Alleghany Mountains refused to accept the ordinance of secession, although their members were represented in the convention. Just as the Northwest had been settled largely from Virginia, of which it was once a part, so afterward, by reaction, what is now called West Virginia had been largely settled from Ohio. It held few slaves, and its interests were rather with the West than with the East.

Delegates, therefore, from many of these western counties met at Wheeling, on Ohio River, and undertook not only to ignore the action of the vastly larger portion of the State, but called themselves the Virginia legislature, with F. H. Pierpoint as governor. This was in effect a revolution.

To the people of the western counties the important part about the movement was the institution of a new State independent of the Old Dominion proper, for by this means they would acquire local self-government and could build up institutions more suited to their condition. The constitutional requirement that a State must assent to the creation of another State from its territory was met by regarding the Pierpoint government as the government of Virginia. To Thaddeus Stevens, the leader of the lower house of Congress, it seemed ludicrous to hold that a small part of a State could be considered the whole State, and as such consent to the erection of itself into another commonwealth. His solution was that the Constitution had no application to rebellious States, and that they could be dismembered as Congress willed. The plan of a new State was not at first favored by the general government, and Attorney-general Bates wrote strongly disapproving it; but the operations of McClellan against Lee in this part of Virginia established its independence, and finally West Virginia was recognized by Congress in 1862. To Lincoln the subject appealed in a different way. As the government had possession of the south bank of the Potomac, and after a while acquired Norfolk and the Eastern Shore of Virginia, it was possible that

enough might come into Federal possession to be the nucleus for the reorganization of Virginia as a member of the Union.

Being *functus officio* in West Virginia, Pierpoint, the State-maker, moved with his little government to Alexandria. A unanimous vote of seven in its Senate and eleven to two in its House, on February 18, 1865, adopted on behalf of Virginia the Thirteenth Amendment, abolishing slavery except as punishment for crime. The average number of the Alexandria Assembly was about sixteen, but it claimed jurisdiction over the conquests of the Federal armies in northern and eastern Virginia. General Butler rather derided this phantom State government, and Governor Pierpoint on his side fulminated proclamations against the despotism of the military. It all seemed then mere child's play, but upon the surrender of General Lee the matter was to assume a different phase.

It is difficult to ascertain what were Lincoln's final views as to the State government. He had in form recognized Pierpoint at his little capital within the Federal lines as the governor of Virginia; but there is very clear testimony that in 1865, after the withdrawal of Lee and the Virginia legislature, he indicated that he wanted the late Confederate legislature to reassemble and bring back into the Union the State which they had taken out. General Weitzel actually issued orders to this effect, but as soon as Lincoln returned to Washington they were countermanded by a telegram. How far this telegram was composed by the president it is now impossible to ascertain. According to General Grant, Secretary Stanton acted in war time very much upon his own determination, and it was well known that he was opposed to the president's supposed inclination to deal through the old legislatures. Certain it is that shortly after the assassination of Lincoln, President Johnson recognized the Pierpoint government, and it was brought by steamer up to Richmond. It is said that one ambulance was sufficient to transfer governor, government, and archives to the much-too-large capitol.

Thus the fiction had been consistently carried out of a loyal government existing all the time for the State of Virginia, first in counties west of the mountains, and assenting to its own dismemberment, then migrating to Alexandria under the guns of Washington, and finally by way of Norfolk to historic Richmond. Unless it could be compared to Charles II. during his absence on his travels, it was a veritable transmigration of the State-soul. What became of it will interest us later; what is now important is that it may indicate the plan of the Federal government for reorganization of the Southern States.

Somewhat the same thing had been carried out in Tennessee. This State had joined the Confederacy after Lincoln had called for volunteers to subdue the South, but its mountain counties had remained loyal to the Union,—or were disloyal to the Confederacy, according to the point of view. Those counties were in the Alleghany region like West Virginia, and although there was no revolution with the view of creating a new State, Unionism held its own in the Tennessee mountains all through the War. A new State was hardly needed, for by the next year the Federal arms held a considerable portion of the soil of Tennessee, and Lincoln, under his war power as commander-in-chief, instituted a military government for the whole State. Such an establishment was unknown up to that time, and in point of fact the military governor was practically a dictator. Andrew Johnson had been a member of the United States Senate from Tennessee, had not given up his position on the secession of the State, and now in March, 1862, he was made military governor, with power to establish all necessary officers and tribunals. On September 19, 1863, the president authorized him to take such steps as were "necessary and proper to enable the loyal people of Tennessee to present such a republican form of State government as will entitle the State to the guarantee of the United States" under the fourth article of the Federal Constitution. This differed from the Virginia plan in that Virginia

had a civil governor who had been selected, at least in form, by the people; while in Tennessee the governor was appointed by the president; but on the other hand, unlike the conditions in Virginia, he controlled the bulk of the State and was now to see to the organization of a representative government. At this time it would seem that the Federal hold was likely to be permanent. There had been the Confederate defeats in July at Vicksburg and Gettysburg, and in November at Lookout Mountain. Almost the whole of Tennessee was occupied by the Federals.

A convention to consider the situation, elected largely by the Federal military element, met at Nashville and adopted sundry resolutions. In compliance with one of these the military governor, Andrew Johnson, directed the enrollment of militia, and later by proclamation ordered an election in each county for president and vice-president, at which all citizens and soldiers six months resident and loyal to the Union could vote. In order "to secure the ballot box against the contamination of treason" the oath used for members of the convention was prescribed.

Electors for McClellan and Pendleton in the presidential contest protested to the president against this method, and in particular against the test oath, recited violent actions by Johnson and his supporters, and asked that military interference be withdrawn so far as to allow to loyal men a full and free election. Lincoln, however, said that no national question was involved and declined to interfere. This led almost necessarily to withdrawing the Democratic ticket. The election which followed was only nominal and was not recognized by Congress. Thus was presented the peculiar result that a citizen of Tennessee was chosen vice-president of the United States and yet it was declared that his State had "rebelled against the government of the United States, and was in such condition on the 8th of November, 1864, that no valid election for electors of president and vice-president of the United States, according to the Constitution and laws thereof, was held on said day."

Affairs had progressed so far, however, that an executive committee issued a call in December for another convention to assemble January 9, 1865, to consult as to the best method of restoring the State to its place in the Union. The election was again nominal. The convention adopted an amendment to the State constitution abolishing slavery, annulled the ordinance of secession, and ratified all acts of Governor Johnson. It was provided that the action of the convention should be submitted to the vote of the people, and William G. Brownlow, with a full ticket, was nominated for governor. The vote was twenty-five thousand two hundred and ninety-three in favor of the action of the convention, contrary forty-eight,—somewhat over one-sixth of the presidential vote in 1860, and hence considered as complying with the president's proclamation as to restoration of the State on a ten per cent vote. The election for State officers occurred next month and Brownlow and his ticket carried the day without opposition. The legislature assembled; the governor was inaugurated in the first part of April, and the surrender of General Lee occurring shortly afterward the situation so cleared that Tennessee was left in somewhat normal relations with the Union.

Much of the temper in which Lincoln approached the solution of Southern problems appears in his dealings with Louisiana. As he indicated in a message to Congress, he seemed always to realize that "we cannot escape history." His private letters are as thoughtful as his public papers. From the beginning of the war there had been attempts to force his hand. Frémont, in Missouri, and Hunter, at Port Royal, in South Carolina, attempted emancipation by military orders, but were checked by the president, although there was no doubt he would employ that means or any other when he thought it became necessary. Thus, in a letter to a Louisiana critic, dated July 28, 1862, he said:

"Mr. Durant complains that, in various ways, the relation of master and slave is disturbed by the presence of our army, and he considers it particularly vexatious that this, in

part, is done under cover of an act of Congress, while constitutional guarantees are suspended on the plea of military necessity. The truth is that what is done and omitted about slaves is done and omitted on the same military necessity. It is a military necessity to have men and money; and we can get neither in sufficient numbers or amounts if we keep from or drive from our lines slaves coming to them. Mr. Durant cannot be ignorant of the pressure in this direction, nor of my efforts to hold it within bounds till he and such as he shall have time to help themselves. . . . What would you do in my position? Would you drop the war where it is? Or would you prosecute it in future with elder-stalk squirts charged with rose-water? Would you deal lighter blows rather than heavier ones? Would you give up the contest, leaving any available means unapplied? I am in no boastful mood. I shall not do more than I can, and I shall do all I can, to save the government, which is my sworn duty as well as my personal inclination. I shall do nothing in malice. What I deal with is too vast for malicious dealing."

Even a day or two earlier he had written to a friend there as follows: "It seems the Union feeling in Louisiana is being crushed out by the course of General Phelps. Please pardon me for believing that is a false pretense. The people of Louisiana—all intelligent people everywhere—know full well that I never had a wish to touch the foundations of their society, or any right of theirs. With perfect knowledge of this, they forced a necessity upon me to send armies among them, and it is their own fault, not mine, that they are annoyed by the presence of General Phelps. . . . Remove the necessity of his presence. . . . I am a patient man—always willing to forgive on the Christian terms of repentance, and also to give ample time for repentance. Still, I must save this government, if possible. What I cannot do, of course I will not do; but it may as well be understood, once for all, that I shall not surrender this game leaving any available card unplayed."

The measures calling forth these letters were those following the capture of New Orleans on April 26, 1862. Among other acts of the military was an organization of the refugee slaves as soldiers, for General Butler's theory was carried out that such negroes were contraband of war. The military during most of the time which concerns us now was under the control of General Banks. The president also appointed a military governor in the person of George F. Shepley, giving him the rank of brigadier-general, and authorizing him to take whatever steps were feasible toward organizing civil rule. The local courts not being recognized, he made Charles A. Peabody judge of a provisional court, the judicial commission being issued by the secretary of war.

The desire of the president was to have a civil government succeed the military in all cases possible, and even at this early date an election was permitted for members of Congress in such parts of Louisiana as were occupied by the Federals. He wrote to the military governor strongly disapproving the supposed plan of returning to Congress Federal officers not citizens of that State. He sarcastically said that they did not need at Washington members from Louisiana in order to get along with legislation, and that what they did need was conclusive evidence that respectable citizens were willing to be members and swear support to the Constitution, and that other respectable citizens were willing to vote for them. "To send a parcel of northern men here as representatives," he added suggestively, "elected as would be understood (and perhaps really so) at the point of the bayonet would be disgusting and outrageous; and were I a member of Congress here I would vote against admitting any such man to a seat." He wished elections for Congress to take place, not as a movement of the military authorities, but as a movement of the people of the district. He merely wished those authorities to give the people a chance, of course recognizing that the elections could not conform in all particulars to the local laws, because the election

officers would probably not act. "These knots," he added, "must be cut, the main object being to get an expression of the people." If they would themselves fix day and way, all the better; but if not, Shepley should fix an early time in all districts and have elections in as many places as possible.

Elections were accordingly held. As desired by the president, no Federal officer was a candidate, and, upon investigation, Hahn and Flanders were duly admitted to the House of Representatives to fill unexpired terms in that body. The United States senators-elect were, however, not seated.

A division of sentiment as to the effect of the conquest was shown almost from the first. It was not until later that Judge Peabody, in the two cases of the United States *versus* Reiter and the United States *versus* Louis, laid down the principle that the capture of New Orleans was an absolute subjugation by the Federal forces, abrogating all laws, and that consequently the State had to be reconstructed from the foundation. This theory, however, was declared and acted upon in New Orleans from an early date by what was called the Free State party. Thus, their general committee persuaded Banks to order a registration of voters, and their influence was at least strong enough to cause the president, in the summer of 1863, to refuse to recognize a committee representing the planters, who contended that the State was still under its old laws. Lincoln refused to undo anything that had been accomplished. An election took place, but the representatives chosen for the full term were not admitted to Congress.

The Free State party were aligning themselves with the radicals at Washington and the development of opinion in Congress antagonistic to the president proceeded at such a rapid rate that Lincoln finally took sides in Louisiana matters. Banks, by the president's direction in the early part of 1864, proclaimed an election to be held under the old Louisiana constitution, excepting the provisions as to slavery. These were deemed abrogated by the Emancipation Proclamation of 1863.

The State election was accordingly held on Washington's birthday, and Michael Hahn, the government candidate, was declared elected by a vote of over eleven thousand to about eight hundred. The Free State politicians, professing themselves to be the "truly loyal," protested against the proceedings. Some basis for complaint that the election was really dictated by the military was afforded in a statement made by General Banks himself during the spring that "the fundamental law of the State was martial law." Hahn, however, was duly inaugurated on March 4th, and a few days later he was invested, by President Lincoln, with the powers of military governor.

Thus, in Virginia, the president had recognized a civil governor elected by a loyal minority; in Tennessee had instituted the office of military governor to prepare the way for a civil successor; and now, in Louisiana, were to be taken other steps forward in the development of reorganization. Lincoln was tending by this time to a trial of negro suffrage. In writing to Hahn, congratulating him upon having fixed his name in history as the first free State governor of Louisiana, the president added that as Louisiana was about to have a convention which would probably define the elective franchise, "I barely suggest for your private consideration, whether some of the colored people may not be let in, as for instance the very intelligent, and especially those who have fought gallantly in our ranks. They would probably help, in some trying time to come, to keep the jewel of liberty in the family of freedom. But this is only a suggestion, not to the public, but to you alone."

An election was ordered by Banks for this constitutional convention, and Hahn issued to sheriffs the necessary directions. On April 6, 1864, the convention so chosen met, and remained in session in one form or another until July 25th, giving as the result of their labors a new constitution, whose most striking point was the complete abolition of slavery. This was carried on May 11th, by a vote of seventy-two to thirteen, and the legislature was prohibited

from passing any law recognizing the right of property in slaves, but negro suffrage was not established. At an election held in September the constitution was adopted by a vote of six thousand eight hundred and thirty-six to one thousand five hundred and sixty-six.

On October 3, 1864, a civil government was organized, and Governor Hahn sent a message to the legislature pointing out the importance of what was to be done in Louisiana. In this State there was a very large proportion of negroes, now set free, and the experiment was to be made of free negro labor. General Banks had already made a forward movement as to plantation labor in the regulations issued by him in February, 1864, in General Order No. 23. It was this order which contained the famous statement as to civil and political duties that those "entitled to the rights of citizens of the United States will be required to participate in the measures necessary for the reestablishment of civil government," and the threat that "indifference will be treated as a crime." Hahn now urged the adoption of such laws as to the freedmen as would meet "all the exigencies of the case, securing to the public the products upon which the wealth of the State and people depend, and to laborers their full rights." The experiment was well worth trying, but in such unsettled times civil remedies were not very effective.

The election for president was held, and when members of Congress, also chosen in the fall, duly presented themselves at Washington, it brought on a Congressional investigation. Dawes for the committee on elections, made a report in February, 1865, going fully into the proceedings in Louisiana and reporting favorably on the contention of the applicants; but there was also a strong minority report, and no vote was taken upon the application.

Almost the same course was had in the Senate. Its committee reported favorably to the proposed senators, but finally, after an animated debate on February 25th, the Senate refused to admit them. The underlying ground was, no doubt, opposition to the president's plan, which assumed

to make reorganization an executive rather than a legislative act, a question which will concern us later. Another ground, and one tenable by all parties, was that the condition in Louisiana was military and not civil, and that in point of fact there had been no free election in that State, nor could there be one. This view was voiced especially by Charles Sumner.

On the whole, the result was that during the Civil War there had been a civil restoration, but it was practically limited to New Orleans. Indeed, this had been recognized at the time, and even Banks had admitted that for all practical purposes the State of Louisiana was New Orleans. Moreover, it was the work of the executive. Congress had been inconsistent in its action as to the admission of Southern Representatives and Senators, but its later action had been adverse and denied validity to the election for president.

The year 1862 was one in which the promise of Union success led to the appointment by Lincoln of military governors in yet other States. Thus, Edward Stanley was commissioned for North Carolina by the secretary of war, but beyond an address in June, near the coast, he had not the good fortune to exercise any functions of the office. In Arkansas, John S. Phelps received a similar appointment, but it was an honorary one, if not a sinecure, until the fall of Vicksburg laid open the Mississippi States. Until the middle of 1863, Arkansas fairly maintained its independence. Shortly afterward, however, the Federal arms were in possession of probably two-thirds of the State and to avoid anarchy there was a spontaneous movement on the part of the Union element to organize a government. Just after Little Rock surrendered to General Steele, a mass meeting was held at Fort Smith, in October, 1863, claiming to represent twenty counties. It issued a call for delegates to a convention at Little Rock, and provided the machinery for commissioners of elections.

Forty-five delegates duly met in January, 1864, representing about half of the State, some members failing to

attend. They promptly declared void the ordinance of secession, repudiated the Confederate debt and abolished slavery, and submitted their constitution, as amended, for ratification by the people. At the same time there was held an election for State and county officers and members of the legislature. President Lincoln, on an application of citizens of Arkansas, had instructed General Steele to permit an election in March for a convention which should abolish slavery and "make such provisions for the freed people as shall recognize and declare their permanent freedom and provide for their education, and which yet may be construed as a temporary arrangement suitable to their present condition as a laboring, landless, and homeless class." But the next month he learned from William M. Fishback of a convention being already at work, and sent directions to General Steele to harmonize the two movements. "Some single mind," said he, "must be master, else there will be no agreement on anything." The elections resulted in a vote of over twelve thousand for the constitution and a few more than two hundred against it,—less than a quarter of that cast at the presidential election of 1860. The legislature had delegates from forty-six of the fifty-four counties.

Elisha Baxter and William M. Fishback, claiming to represent the State of Arkansas under election by this legislature, presented themselves at Washington for admission to the Senate. The subject was referred to the judiciary committee, and on June 27th Trumbull submitted an elaborate report which argued that the proclamation of the president in 1861 that Arkansas was in insurrection had never been recalled, and that in point of fact, whether Confederate or Union, the State was practically under military rule and was thus incapable of instituting the republican form of government required by the Constitution. For this reason, the report was adverse to their admission, and it was adopted by the Senate. The same view prevailed in the House in regard to the application of gentlemen claiming to be Representatives.

In January, 1865, the subject of Arkansas came again before Congress, and by that time circumstances had somewhat changed. Dawes reported for the committee on elections, in February, showing that slavery had been abolished in the State, that only those who had not borne arms against the United States were voters, and incidentally that Arkansas had furnished ten thousand soldiers to the Union cause. It was admitted that the election was illegal in its forms, but it was argued that it could not be anything else under the circumstances of the time. As all powers not granted in the Constitution were reserved to the people, their voluntary reorganization had produced a republican result which should be recognized. The resolution for seating the Representatives, however, did not come to a vote, and the same result ensued in the Senate on the application of William D. Snow to be seated as Senator from Arkansas.

The great events of 1863 had made it probable that the Confederacy was receding from its high-water mark. From the time of Vicksburg and Gettysburg in July the Confederate arms were stationary, if not falling back. Chickamauga was a brilliant Confederate victory; but Nashville had offset it and, in November, Lookout Mountain gave all Tennessee to the Federals and opened the way through north Georgia. It was at this time, on the day Congress met, that the president issued a proclamation of conditional amnesty and outlined his plan of reorganization. He promised pardon to rebels who would take the following oath:

"I, ———, do solemnly swear, in the presence of Almighty God, that I will henceforth faithfully support, protect, and defend the Constitution of the United States and the Union of the States thereunder; and that I will in like manner abide by and faithfully support all acts of Congress passed during the existing rebellion with reference to slaves, so long and so far as not repealed, modified, or held void by Congress or by decision of the Supreme Court. So help me God."

He went on to say that "The persons excepted from the benefits of the foregoing provisions are all who are or shall have been civil or diplomatic officers or agents of the so-called Confederate Government; all who have left judicial stations under the United States to aid the rebellion; all who are or shall have been military or naval officers of said so-called Confederate Government above the rank of colonel in the army or of lieutenant in the navy; all who left seats in the United States Congress to aid the rebellion; all who resigned commissions in the Army or Navy of the United States and afterwards aided the rebellion; and all who have engaged in any way in treating colored persons, or white persons in charge of such, otherwise than lawfully as prisoners of war, and which persons may have been found in the United States service as soldiers, seamen, or in any other capacity.

"And I do further proclaim, declare, and make known that whenever, in any of the States of Arkansas, Texas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, South Carolina, and North Carolina, a number of persons, not less than one-tenth in number of the votes cast in such State at the Presidential election of the year A. D. 1860, each having taken the oath aforesaid, and not having since violated it, and being a qualified voter by the election law of the State existing immediately before the so-called act of secession, and excluding all others, shall reestablish a State government which shall be republican and in no wise contravening said oath, such shall be recognized as the true government of the State." Then follows the provision relating to freedmen as a landless class declared earlier as to Arkansas.

He "suggested as not improper that in constructing a loyal State government in any State, the name of the State, the boundary, the subdivisions, the constitution, and the general code of laws as before the rebellion be maintained, subject only to the modifications made necessary by the conditions hereinbefore stated, and such others, if any, not

contravening said conditions and which may be deemed expedient by those framing the new State government." The ten per cent plan was not necessarily final, for he adds: "It may be proper to further say that whether members sent to Congress from any State shall be admitted to seats constitutionally rests exclusively with the respective Houses, and not to any extent with the Executive. And, still further, that this proclamation is intended to present to the people of the States wherein the national authority has been suspended and loyal State governments have been subverted a mode in and by which the national authority and loyal State governments may be reestablished within said States or in any of them; and while the mode presented is the best the Executive can suggest, with his present impressions, it must not be understood that no other possible mode would be acceptable."

This last clause showed that the president had in mind the possibility of some other reorganization, and that Congress might have some rights in the matter. It must be remembered that the Civil War brought the power of the executive to the highest pitch it had ever reached. President Lincoln was almost a dictator, and acts and resolutions were passed by Congress at his suggestion. He himself looked to the advent of peace as the opportunity for diminishing the executive functions.

Meantime, Congress was not inactive, especially after Grant had assumed command in the East and with the battle of the Wilderness was beginning his fierce onslaughts on Lee. A plan of reconstruction on different lines was worked out by Henry Winter Davis and B. F. Wade, and their bill finally passed Congress.

This bill, in fourteen sections, provided for provisional governors in the States declared in rebellion, to be appointed by the president with the advice of the Senate. These should direct the marshal of the United States with his deputies to enroll all white male citizens of the United States resident in the State, tendering to each an oath to support the

Constitution. If the persons so taking the oath amounted to a majority of those enrolled in the State, the governor should invite the loyal people to elect delegates to a convention looking to the reestablishment of the constitutional State government. The number so chosen should equal the members of both houses of the last constitutional legislature. The governor should appoint the date, place, and method of voting, conforming such details to previous laws as nearly as practicable.

The electors should be white male resident citizens of the age of twenty-one years, who should take the test oath of July 2, 1862, and also citizens in the military service of the United States, but no person who had held any office, State or Confederate, under the rebel usurpation or voluntarily borne arms against the United States should be an elector or eligible as a delegate. Any person taking the oath could, nevertheless, by outside evidence be proved to be ineligible. This oath therefore became of such importance as to be worth recalling in full. Every Federal officer, except the president, before entering upon the duties of his office must take and subscribe the following oath or affirmation: "I, A. B., do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted nor attempted to exercise the functions of any office whatever, under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose

of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God." It was now extended from officials to citizens and became the test of loyalty.

The provisional governor should convene the delegates at the capital of the State or some other fit place, administer the oath, and preside over the deliberations of the convention. The convention should declare on behalf of the people of a State their submission and adopt the following provisions:

"First. No person who has held or exercised any office, civil or military (except offices merely ministerial and military offices below the grade of colonel), State or Confederate, under the usurping power, shall vote for or be a member of the legislature or governor. Second. Involuntary servitude is forever prohibited, and the freedom of all persons is guaranteed in said State. Third. No debt, State or Confederate, created by or under the sanction of the usurping power shall be recognized or paid by the State."

When these were adopted, the convention should proceed to reestablish a republican form of government and ordain a constitution containing the above three provisions, and the constitution should then be submitted to the people entitled to vote under this law. The returns should be made to the provisional governor, who should canvass them and certify the same to the president, who, after obtaining the assent of Congress, should recognize the government so established as the constitutional government of the State.

In case the convention refused to establish a State government on these terms, the convention should be dissolved, and in the meantime the governor should enforce this act, the laws of the United States and the old laws of the State except such as related to servitude. Laws for the punishment of white people were extended to all persons. Jurors should have the same qualifications as voters. The president might appoint such officers provided by the laws of the old State as he might find necessary. The provisional governor

should prescribe proper regulations as to assessment, levy, and collection of taxes annually, following the provisions of the laws before the insurrection as nearly as practicable. The proceeds of the taxes were to be accounted for to the provisional governor, and by him applied to the expenses of administration of the laws in such State, subject to the direction of the president, and the surplus deposited in the treasury of the United States, to be paid to the State upon appropriation made when a republican form of government had been recognized therein.

To ratify the Emancipation Proclamation, Section 12 declared all persons held in involuntary servitude in the States in rebellion emancipated and free, and their posterity should forever be free, and these provisions could be enforced by *habeas corpus*. Conviction of restraining persons for the purpose of involuntary servitude would be punished by a fine of not less than fifteen hundred dollars and imprisonment for not less than five nor more than twenty years.

The provision was added that any person thereafter exercising any office, civil or military, unless ministerial or below the grade of colonel, in the rebel service, State or Confederate, was not to be a citizen of the United States.

This act was presented to Lincoln for his approval less than one hour before the *sine die* adjournment of the session. It was not signed, and he forthwith on July 8th issued a proclamation submitting the plan to the people for their consideration. He was unprepared, he said, to declare that the free State constitutions and governments already adopted and installed in Arkansas and Louisiana should be set aside, as it would repel and discourage loyal citizens from further effort, nor was he prepared to recognize the constitutional competency of Congress to abolish slavery in the States, but he was sincerely hoping that a constitutional amendment might be adopted abolishing slavery throughout the nation. He went on to say he was satisfied that the system for restoration contained in the bill was a very proper plan of future action for loyal people of whatever

State chose to adopt it, and he was prepared to give executive aid and assistance to any such people as soon as the military resistance was suppressed. In such case, military governors would be appointed, and directed to proceed according to the bill.

In other words, he was ready to assist in a restoration according to these terms if any State wished to try it, but he was unwilling to undo what had been accomplished already or tie himself down to this or any other form of reorganization of the insurgent States. It seemed as if he thought reorganization a popular function, subject to executive initiative and approval.

Lincoln thus not only in effect vetoed the act of Congress, but placed what he considered a better plan before the people for their consideration. Congress had adjourned and could take no action as such, but the authors of the bill, Henry Winter Davis, representative from Maryland, and Benjamin F. Wade, the well-known senator from Ohio, published in the New York *Tribune* on August 5th a paper on the president's action, which was itself somewhat in the nature of a proclamation. In this paper, they stated that in the opinion of Congress there was no government in the rebel States and Congress had rejected the senators and representatives chosen under the president's plan in Arkansas. They declared that the president's proclamation of December 8th inaugurated only anarchy, that his present action was a studied outrage, and more than insinuated that his object was to hold the rebel States under military governors and use their electoral votes for his own personal ambition in the ensuing presidential election. They asked, "If the rebel majority assert their supremacy in those States, and send votes which elect an enemy of the government, will we not repel his claims? And is not that civil war for the presidency inaugurated by the votes of the rebel States?" Toward the end of the article they say that "the president has greatly presumed on the forbearance which the supporters of his administration have so long practised, . . .

but he must understand that our support is of the cause and not of the man. . . . And if he wishes our support he must confine himself to his executive duties,—to obey and execute, not make the laws,—to suppress by arms armed rebellion, and leave political reorganization to Congress.”

The paper created a great sensation, and on the issue thus defined were held the elections of 1864. Lincoln was triumphantly reëlected, and Davis lost his seat in Congress. The able Wade had already been reëlected senator and so did not suffer at this time; but it was accepted by the whole country that Lincoln’s policy was vindicated. The president was encouraged to proceed in the course which he had chosen.

He evidently thought that the time was approaching when there would be accessions to the Union which would offset the secessions from it, and was prepared to adjust himself to whatever might prove to be wise. In the annual message of 1864, he said that no attempt at negotiation with the insurgent leader would result in good, as that leader would accept nothing short of severance from the Union,—and this could not be considered. Nevertheless, while there could be no negotiation with him under these circumstances, this was not true of those who followed that leader. “Although he cannot re-accept the Union, they can. . . . They can at any moment have peace simply by laying down their arms and submitting to the national authority under the constitution. . . . If questions should remain, we would adjust them by the peaceful means of legislation, conference, courts, and votes, operating only in constitutional and lawful channels. Some certain, and other possible, questions are and would be beyond the executive power to adjust; as, for instance, the admission of members into Congress, and whatever might require the appropriation of money. The executive power itself,” he adds, prophetically, “would be greatly diminished by the cessation of actual war. Pardons and remissions of forfeitures, however, would still be within executive control. In what spirit and temper this

control would be exercised, can be fairly judged of by the past." A year earlier he had offered general pardon and amnesty to all except certain designated classes and even they were still within the contemplation of special clemency. During the year many had availed themselves of the general provision, and special pardons also had been granted within the excepted classes. In fact, he added, no voluntary application had been denied. The door which had been open for a year might be closed, however, and more rigorous measures adopted.

He made it clear that he had not in any way changed his attitude as to slavery. He had declared a year before and now reiterated "while I remain in my present position I shall not attempt to retract or modify the Emancipation Proclamation, nor shall I return to slavery any person who is freed by the terms of that proclamation, or by any of the acts of Congress."

He used the words "restore," "reestablish," and sometimes "reconstruct" in speaking of this return of the insurgents to the bosom of the Union. The word "reconstruction," indeed, was no new one. It was common in the newspapers and speeches at the outbreak of the War, but it there related principally to the Union and its Constitution. Now the Union was safe and the word referred to the States which had attempted to secede. In his last public address, April 11, 1865, upon the occasion of a visit by many people to congratulate him on the surrender of Lee, Lincoln said that recent successes pressed much more closely upon his attention "the reinauguration of the national authority—reconstruction—which has had a large share of thought from the first," and in the same address he speaks of restoring the proper practical relations between the seceded States and the Union.

On this occasion he says that "unlike a case of war between independent nations there is no authorized organ for us to treat with—no one man has authority to give up the rebellion for any other man. We must simply begin with

and mould from disorganized and discordant elements. Nor is it a small additional embarrassment that we, the loyal people, differ among ourselves as to the mode, manner and measure of reconstruction." Thus, he notices that he is much censured for some supposed agency in setting up the new State government of Louisiana. In that, however, he had done no more than the public already knew, and had substantially acted "under the plan of reconstruction, as the phrase goes," declared in his message of December, 1863. This was, if adopted by any State, acceptable and would be sustained by the executive. "This plan (of 1863) had been in advance submitted to the then cabinet and distinctly approved by every member of it."

Lincoln was an opportunist of the best kind. From his first inaugural to his last address his desire was to restore the Union. Everything was important in his mind only as a means to that end. Slavery he hated, but not the slaveholder. He made it clear from the beginning that he not only thought each State supreme as to that institution within its own boundaries, but that under the Constitution fugitive slaves must be returned from the State in which they sought refuge. He could not accept either Douglas's idea that the Territories could elect for themselves whether to come in as free or slave, or the Southern notion, that, as slaves were property under the Constitution, they could necessarily be taken by their masters into the Territories common to the whole Union. He declared that the South had nothing to fear from him in regard to the institution of slavery within the bounds of the respective States and also that Congress had no right to legislate upon the subject. As a war measure, in order to cripple the enemy, he declared free the slaves within the hostile borders,—thus, so far as he could effect it, presenting the anomaly of having the South partly slave and partly free. It was a *brutum fulmen* until the triumph of the Federal arms, and then it raised questions which complicated that of the restoration of the Union.

As an opportunist, he had never settled in his mind whether the rebellious States were to be considered as in the Union or out of the Union. This he said was a mere metaphysical question. In his very last public utterance, he said it was unnecessary to settle that point. "We all agree that the seceded States, so called, are out of their proper practical relation with the Union, and that the sole object of the government, civil and military, in regard to those States is to again get them into that proper practical relation. I believe that it is not only possible, but in fact easier, to do this without deciding or even considering whether these States have ever been out of the Union, than with it. Finding themselves safely at home, it would be utterly immaterial whether they had ever been abroad. Let us all join in doing the acts necessary to restoring the proper practical relations between these States and the Union, and each forever after innocently indulge his own opinion whether in doing the acts he brought the States from without into the Union, or only gave them proper assistance, they never having been out of it."

There had been thus a steady development in the minds of the leaders, even in the mind of Lincoln, conservative as he was. At first they declared the war to be only for the restoration of the Union, and then within six months declined to reaffirm this principle. In Virginia they had set up civil government, ready to extend its sway over the whole State when conquered, and yet this was possibly more *in terrorem* than otherwise. Next, in Tennessee, they had established a military governor, an absolute dictator, and this under Lincoln's ten per cent proclamation had led to a so-called civil government, its electors being men who could take the oath of fealty to the Union. This same principle had been carried out in Arkansas and Louisiana, but there had come the parting of the ways when Congress attempted to pass a hard and fast reconstruction law. This had not only suffered a pocket veto, but the president had made it plain that he would not be tied down to any one

form of reorganization. What had been accomplished during the war was valuable more as precedent than for the actual results, and the most threatening element in the situation was the division, which was imminent, between the president and Congress. Lincoln seemed to think of the initiation of reconstruction as an executive function, while Congress certainly considered it a matter of legislation. There was not only a difference in the source of reorganization but in the kind of reorganization. The president aimed at creating governments and electorates whose loyalty should be determined by promissory oaths of future allegiance, while Congress was resolved upon recognizing electorates and governments whose test should be loyalty to the Union in the past. The one policy would enable all honorable Confederates to unite in rebuilding their States; the other would turn public affairs over to people many of whom had been turncoats or skulkers during the war. But just as slavery had been in some sense the cause of the destruction of the Union, although each side denied it, so reestablishment of the Union was to be complicated by questions growing out of the destruction of slavery, and even thus early we find Lincoln feeling his way toward a trial of negro suffrage. He wished it to be confined to the best of the race, but in other hands than his it might prove a veritable Pandora's box. Congress, on the other hand, until checked by the elections, had determined upon a more thorough method of reconstruction, requiring voters to take a much more stringent oath than that required by Lincoln, but still admitting only white men to the franchise.

An impression prevailed in some quarters that Lincoln contemplated for the States surrendering with Lee and Johnston a different plan from that developed during the war in the Border States and Louisiana, so long held by the Federal troops. It was suggested that he was thinking of using the old State governments as the nucleus, or at least as machinery, to develop a loyal sentiment and to create loyal citizens. If so, however, here, as before, there was

no scheme clear in his mind, and his action would vary with circumstances. Certainly such a plan was not favored by Stanton and others at Washington.

At all events, the fatal bullet of Booth in Ford's Theatre put an end to the planning of him who, in one way or another, would have been the restorer of his country. His successor had to start out hampered by his own prejudices and by not precisely knowing Lincoln's views; and it may be there would be greater difficulties yet for him. The North was rendered frantic by the assassination, and inclined to go to greater extremes than the very man whose death she deplored. Unless Andrew Johnson should have at least as much tact as Lincoln, he might find the difficulties under the new circumstances greater than those his predecessor had encountered. Everything and everybody was at sea. No one could tell what would result.

CHAPTER III

THE RESTORATION UNDER JOHNSON

It was the irony of fate for a Southern man to be called to the helm at this crisis, and yet the Southerners at least would seem to have no cause to rejoice. Andrew Johnson was a man of the middle class, a tailor by trade, in a small town in East Tennessee. He had learned to read after his marriage, and became prominent in politics because of his extreme views. He had been a member of the legislature, governor, and congressman in succession, was senator at the outbreak of the war, and declined to resign when the State seceded. He had a hatred of what he called the "slave aristocracy" and all the bitterness usually engendered by the factional struggles of his native State, but his ability and the reputation he had made for firmness carried him into the vice-president's chair. Congress refused to count the presidential vote of Tennessee because there was "no lawful election," probably on the theory, Lincoln to the contrary notwithstanding, that the State was outside the Union. The seating of one of its citizens as vice-president presented an anomaly; and it was doubled now that that citizen had become President of the United States. Johnson took the oath of office at his hotel on the morning of Lincoln's death, and delivered a short inaugural in the Senate chamber. It may be doubted if Sumner was right in declaring Johnson intoxicated on the occasion of his inauguration as vice-president, but he had certainly entered upon his

duties full of himself as well as full of patriotism. Now, as president, the only assurance he could give of the future was a reference to his laborious past, which, he said, was founded upon the great principle of right. He modestly declared, "Duties have been mine; consequences are God's."

The same bitterness which had distinguished the private citizen and the military governor showed itself in the president. He immediately accused the Southern leaders of complicity in Lincoln's assassination and threatened all traitors with punishment. "Why," he said, "should a man be executed for killing one other man and those who murdered a nation go free?" He undertook to arrest General Lee, but General Grant interfered and enforced the sanctity of his parole. Johnson's expressions as to making treason odious were so forcible that Senator Wade suggested that he slaughter not more than a round dozen of the prominent Confederates, and delegations from churches asked him to be merciful.

Such was the man who was to attempt a restoration of the Union. He was totally different in character from Charles II., who presided over the English Restoration, for he was patriotic and able, if violent in speech, and reversed the Earl of Rochester's famous epigram on Charles. His word could be relied on, and if he said foolish things, at least he did many wise ones.

A leading man in Lincoln's Cabinet—and as some thought, the leading man in the whole administration, Lincoln not excepted—was William H. Seward, Secretary of State. He had been governor of New York and a strong competitor of Lincoln for the presidential nomination, and had proved himself a statesman of high rank. He had done much to aid Lincoln, and his persuasive methods were now influential in calming Johnson. This was much to the credit of Seward, as he had himself been stricken down in the massacre of the Cabinet which had been attempted by Booth and the other conspirators, but even severe wounds could keep the secretary only six weeks from the council table.

Congress not being in session, Johnson proceeded to act as if master of the whole situation. Lincoln, it will be remembered, had noted that his power would be lessened with the return of peace, because much that he had done was based wholly upon the exercise of the war power. Johnson was disposed to end the war situation as quickly as possible, and at the same time to be instrumental in setting up the civil governments which should follow. It is doubtful how far Lincoln would have gone after the restoration of peace. The Union, however, had acquiesced in the policy of a practical dictator in Lincoln, and in the only clash between the president and Congress over reconstruction, that of the Wade-Davis bill of 1864, the country had unmistakably sustained Lincoln. It would seem, therefore, that so long as what had been planned by him was adhered to, there would be no great opposition if the results proved satisfactory.

However that may be, Johnson proceeded to govern by proclamation. The first thing was to end the war so far as it could safely be done. Thus, in May, he declared the ports open, and from time to time fixed dates from and after which the war was to be considered as at an end in the respective districts.

The theory of State reorganization pursued by Lincoln in war time, as exemplified in Louisiana, was based on an electorate having the qualifications fixed by the State prior to secession, and sworn to be loyal to the Union and its acts. Realizing that the South was all but unanimous, he was willing to recognize even ten per cent in number of the voters as a sufficient nucleus, satisfied that in time more would come, and when this electorate created a State government similarly loyal, the president recognized it as legal. He would have pursued the same action after the surrender, for, if his course was dependent upon his power as commander-in-chief, the war was still smouldering and peace could not be considered as reestablished until civil governments existed; and if it was considered that there was

peace, with the Union accepted and slavery abolished, local governments established by loyal voters who would incorporate these results in their constitution could be safely recognized. Tact might be required to save the *amour propre* of Congress and secure the admission of representatives to House and Senate. Had Lincoln lived, his warm heart, his knowledge of men, his very opportunism that knew what not to do as well as what to do, would likely have still won and held public confidence. What Johnson could accomplish with Congress was yet to be seen. In the exercise of his executive functions, he was neither dilatory nor wavering. As firmly as Lincoln, probably more firmly, the new president declined to recognize what were called the rebel State governments, and on May 29, 1865, as a first step in the work of reorganization issued a proclamation of amnesty and pardon, restoring civil rights to many persons who had not accepted the previous offers of 1863 and 1864.

This proclamation extended "to all persons who have, directly or indirectly, participated in the existing rebellion, except as hereinafter excepted, amnesty and pardon, with restoration of all rights of property, except as to slaves and except in cases where legal proceedings under the laws of the United States providing for the confiscation of property of persons engaged in rebellion have been instituted; but upon the condition, nevertheless, that every such person shall take and subscribe the following oath (or affirmation) and thenceforward keep and maintain said oath inviolate, and which oath shall be registered for permanent preservation and shall be of the tenor and effect following, to wit: 'I, _____, do solemnly swear (or affirm), in the presence of Almighty God, that I will henceforth faithfully support, protect, and defend the Constitution of the United States and the Union of the States thereunder, and that I will in like manner abide by and faithfully support all laws and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves. So

help me God.' " This was in effect the oath prescribed by Lincoln's 1863 plan.

There were, however, class exceptions. The first six classes were those described in Lincoln's proclamation, and the following were now added: "(7) All persons who have been or are absentees from the United States for the purpose of aiding in the rebellion. (8) All military and naval officers in the rebel service who were educated by the Government in the Military Academy at West Point or the United States Naval Academy. (9) All persons who held the pretended office of governor of States in insurrection against the United States. (10) All persons who left their homes within the jurisdiction and protection of the United States and passed beyond the Federal military lines into the pretended Confederate States for the purpose of aiding the rebellion. (11) All persons who have been engaged in the destruction of the commerce of the United States upon the high seas and all persons who have made raids into the United States from Canada or been engaged in destroying the commerce of the United States upon the lakes and rivers that separate the British Provinces from the United States. (12) All persons who, at the time when they seek to obtain the benefits hereof by taking the oath herein prescribed, are in military, naval, or civil confinement or custody, or under bonds of the civil, military, or naval authorities or agents of the United States as prisoners of war, or persons detained for offenses of any kind, either before or after conviction. (13) All persons who have voluntarily participated in said rebellion and the estimated value of whose taxable property is over \$20,000. (14) All persons who have taken the oath of amnesty as prescribed in the President's proclamation of December 8, A. D. 1863, or an oath of allegiance to the Government of the United States since the date of said proclamation and who have not thenceforward kept and maintained the same inviolate. Provided, That special application may be made to the President for pardon by any person belonging to the excepted classes, and such clemency

will be liberally extended as may be consistent with the facts of the case and the peace and dignity of the United States."

The new citizens, therefore, would be the old purified by a stringent oath of allegiance, to be taken in duplicate by any commissioned officer or any civil or military officer of a loyal State. One copy was to be sent to the State department and another retained by the affiant. Hostilities being at an end, it was thought there was no need of a ten per cent voting provision, as in Lincoln's plan.

It was perhaps natural that the beginning of Johnson's reorganization should be with Virginia, although the description given by Thaddeus Stevens of the Pierpoint government was forcible and in some respects true. "Virginia," said he, "had assembled the free representatives of fragments of about eleven townships, out of one hundred and forty-two counties; elected in spots between the contending armies, on disputed grounds, . . . twelve men, . . . who met within the Federal lines, called itself a convention, formed a constitution, ordered elections for the whole State, and Governor Pierpoint received about 3,300 votes for governor, . . . and was proclaimed in the market-house of Alexandria governor of imperial Virginia, the mother of statesmen. In reconstruction the President acknowledged him as the governor, and those twelve as the representatives of a million and a quarter of people, and counts this Virginia as one of the twenty-seven States that adopted the constitutional amendment. I am fond of genteel comedy, but this low farce is too vulgar to be acted on the stage of nations."

Nevertheless, possibly the theory of Lincoln, and certainly that of Johnson, was that Pierpoint represented the true, loyal government in the State of Virginia. Therefore, on May 9, 1865, was issued an executive order to reestablish the authority of the United States and execute the laws within the geographic limits known as the State of Virginia. In the first place it was declared that all acts of the authorities recognizing Jefferson Davis, John Letcher, and William

Smith as chiefs were null and void, and that the secretaries of state, treasury, war, navy, and interior, respectively, the postmaster-general, and the district judge of Virginia should proceed to perform their duties applicable to the said geographic limits,—the treasury appointing assessors and collectors and other officers to execute the revenue laws. Preference was to be given to loyal persons resident within the respective districts, but if no suitable persons were resident, then appointments should be made from other States or districts. In order to carry into effect the guarantee of the Constitution of a republican form of State government and to complete the reestablishment of Federal laws and the restoration of peace, Francis H. Pierpoint was recognized as governor of the State of Virginia, and it was declared that he would be “aided by the Federal government so far as may be necessary in the lawful measures which he may take for the extension and administration of the State government throughout the geographic limits of said state.” Pierpoint accordingly extended his rule over these geographic limits, called a legislature, and thus begun the restored government of Virginia.

In a proclamation affecting other matters, the president, on July 13th, had recognized that the insurrection was suppressed so far as it related to Tennessee, and that the State was fully reorganized under the recently adopted constitution. Arkansas and Louisiana were similarly recognized. Among the States which theoretically had not had a continuous government, the beginning of reorganization was made with North Carolina. A plan, based upon the same fourth section of the fourth article of the Constitution had been considered by Lincoln and was now modified by Johnson and, when approved by the Cabinet, proclaimed on May 29th. It made known that the rebellion waged by a portion of the people of the United States in a violent and revolting form, but whose organized forces had been almost entirely overcome, had in its revolutionary progress deprived the people of North Carolina of all civil government, and that

therefore, the president, for the purpose of enabling the loyal people to organize a proper State government, appointed William W. Holden provisional governor of the State. His duty was "at the earliest practicable period, to prescribe such rules and regulations as may be necessary and proper for convening a convention composed of delegates to be chosen by that portion of the people of said State who are loyal to the United States, and no others, for the purpose of altering or amending the constitution thereof, and with authority to exercise within the limits of said State all powers necessary and proper to enable such loyal people of the State of North Carolina to restore said State to its constitutional relations to the Federal Government and to present such a republican form of State Government as will entitle the State to the guaranty of the United States and its people to protection by the United States against invasion, insurrection, and domestic violence: Provided, that in any election that may be hereafter held for choosing delegates to any State convention as aforesaid no person shall be qualified as an elector or shall be eligible as a member of such convention unless he shall have previously taken and subscribed the oath of amnesty as set forth in the President's proclamation of May 29, A. D. 1865, and is a voter qualified as prescribed by the constitution and laws of the State of North Carolina in force immediately before the 20th day of May, A. D. 1861, the date of the so-called ordinance of secession; and the said convention, when convened, or the legislature that may be thereafter assembled, will prescribe the qualification of electors and eligibility of persons to hold office under the constitution and laws of the State—a power the people of the several States composing the Federal Union have rightfully exercised from the origin of the Government to the present time."

The president further directed military and naval commanders to assist the provisional governor, and the several secretaries, postmaster-general, and judge to proceed to make appointments and enforce laws within their several

departments in the State of North Carolina, herein following the phraseology of the order as to Virginia. The plan was to have the provisional governor call a convention which should amend the old constitution in particulars made necessary by the war, and thus take the second step in restoration. The amended constitution would also provide for the permanent officials and legislature, who would take the final step of reinaugurating local self-government.

In rapid succession followed proclamations almost identical in language, whereby on June 13th, William L. Sharkey was made provisional governor of Mississippi; on June 17th, James Johnson, provisional governor of Georgia, and Andrew J. Hamilton, provisional governor of Texas; on June 21st, Lewis E. Parsons, provisional governor of Alabama; on June 30th, Benjamin F. Perry, provisional governor of South Carolina; and on July 13th, William Marvin, provisional governor of Florida.

The first convention to be held was that in Mississippi, the home of Jefferson Davis, and it was naturally watched with great interest by the North as well as the South. Governor Sharkey was an old line Whig, an honored ex-chief justice. To hasten the suppression of general lawlessness, he reappointed all the old county officials, with the intention of removing any who could not take the oath. He recommended that in remote counties the people organize themselves into patrols for the apprehension of offenders,—an institution known long before the war. Courts he did not generally reestablish and when he did create some, there was, on the ground that negro evidence was not allowed by Mississippi law, constant interference by the military tribunals. Governor Sharkey refused to accept the three thousand dollars salary offered by the president, basing his refusal on the ground that he was not a Federal official, and proceeded to raise the funds necessary for his administration by a tax on cotton, taverns, etc. In this way was collected over one hundred and fifty thousand dollars, which proved to be twice as much as needed.

Governor Sharkey gave notice of the impending election of a convention, and at the same time indicated the qualification of voters. A warm canvass ensued. The voters were divided as to the proper wording of the clause to be adopted concerning slavery,—whether to declare the abolition of the institution, or to declare that it had been abolished by the United States. There would be the practical difference that the former course would destroy all claim on the United States for compensation. Evidently the people had not yet been educated up to feeling that the institution was a moral wrong for the removal of which they should be grateful. The destitution around them, especially of widows and children deprived of that which rendered their lands of value, appealed to the people at large more than the theories of abolitionists. In the election the Whigs were generally successful. The convention met on August 14th, at Jackson, the capital, and were called to order by Governor Sharkey, who administered the oath. The next day he received a telegram from the president expressing gratification at the organization of the convention without difficulty. The president in his forcible way went on to say: "If you could extend the elective franchise to all persons of color who can read the Constitution of the United States in English and write their names, and to all persons of color who own real estate valued at not less than two hundred and fifty dollars, and pay taxes thereon, you would completely disarm the adversary and set an example the other States will follow. This you can do with perfect safety, and you thus place the Southern States, in reference to free persons of color, upon the same basis with the free States. I hope and trust your convention will do this, and as a consequence, the radicals, who are wild upon the negro franchise, will be completely foiled in their attempt to keep the Southern States from renewing their relations to the Union by not accepting their senators and representatives."

Resolutions for the release of Governor Clarke and Jefferson Davis were offered, but they were withdrawn and

finally changed into a memorial signed by the members in their individual capacities.

The leaders were George L. Potter, an irreconcilable, and Judge Watson, Judge Johnston, and William Yerger, conservatives. Possibly the ablest address was that of Yerger, who had been in the North and could report that if Mississippi did not do what the president desired, it would, as a conquered province, be overwhelmed by the rising tide of fanaticism. He urged all to remedy what they could not alter, and look in hope to the future rather than repine over an inevitable past. Thereupon an ordinance was adopted by a vote of eighty-seven to eleven, declaring that "the institution of slavery having been destroyed in the State of Mississippi, neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall hereafter exist." Action on secession was more radical, in that the ordinance was not repealed, as some advocated, but declared null and void by a vote of eighty-one to fourteen, although the other ordinances of 1861 were repealed. As to the negro, nothing was done beyond giving him the right to sue and hold property, but the duty of further legislation to meet the changed condition of the negroes was imposed upon the next General Assembly. Just before adjournment, the convention was congratulated by the president on the progress made in "paving the way for the readmission of the State to the Union." The North, also, seemed generally satisfied.

The next convention was that of Alabama, which met on September 12th, one day before that of South Carolina. The old political division of the State was between the white counties of North Alabama and particularly the Tennessee valley, on the one side, and the Black Belt, where slavery flourished, in Central and South Alabama. Traces of this still appeared. North Alabama had preserved a larger Union element, and this sought now to control the convention. In membership there were thirty-six North Alabamians, sixty-three Conservatives, to use a term becoming

prevalent, and in occupations the usual predominance of farmers and lawyers was preserved. The convention was made up of respectable men, who had as a rule not been known before in politics, although there were two ex-governors and two ex-members of Congress. Most of the Confederates were ineligible under the Johnson plan, or at least thought it prudent not to be prominent. John A. Elmore, however, an able secessionist, was a member and a leader. The North Alabama argument was that the ordinance of secession was "unauthorized" because the work of that convention had not been submitted to the people, but ultimately it was unanimously declared that the ordinance of secession was "null and void." A proposition to repudiate the war debt, which was held largely in Mobile, was not at first favored, but finally, by a vote of sixty to nineteen, passed because required by the president. After much debate over the question of emancipation, an ordinance was adopted on September 22d, by a vote of eighty-nine to three, declaring that "as the institution of slavery had been destroyed in the State of Alabama" it was abolished and should not thereafter exist, except as a punishment for crime. The legislature was directed to pass laws for the protection of freedmen in the enjoyment of all rights of person and property, and to guard them and the State against the evils arising from sudden emancipation. No favor was shown to the idea of negro suffrage. When General Swayne sent in a memorial from a negro meeting in Mobile, praying for the suffrage, it was unanimously laid on the table. Swayne's arrangement for having State officials act as agents of the Freedmen's Bureau was approved, although against the vote of a number of North Alabama members.

An animated discussion arose over R. M. Patton's proposition to base representation upon the white population. To his mind "this was a white man's government and we must keep it a white man's government." The measure was adopted, and the negro as a basis of representation was

eliminated, thereby taking away the political power of Central and South Alabama. The convention found it necessary to do some legislation of its own, and laws, decisions and official acts during the war were validated, and in contracts for payment in Confederate money the courts were directed to ascertain the current equivalent. Another ordinance prohibited the legislature from authorizing the intermarriage of whites and negroes.

Elections were ordered to be held for different offices in the succeeding fall and spring, but the North Alabama desire to have the constitution passed on by the people was not gratified. This had not been a Southern custom, and it was thought the times were too unsettled to inaugurate it, and by a vote of sixty-one to twenty-five the constitution was declared in force. The convention adjourned on September 30th after an actual session of only ten days.

One of the most representative conventions was that of South Carolina, which assembled in the Baptist church at Columbia, where the secession convention had held its first meetings. There were somewhat fewer delegates than to the earlier body, and some of these did not attend. Thus, Wade Hampton was absent in Europe. Governor Pickens, who had made a rabid speech when Sumter was fired upon, was present, as were the clear-headed chancellor, John A. Inglis, James L. Orr, who had been prominent in the Confederate Senate through the war, and aged Alfred Huger, of Huguenot descent, for many years postmaster at Charleston. The provisional governor, Perry, was perhaps the most influential man, although not technically a member of the convention. Many of the members were clad in whole or in part in homespun, and some, from necessity of the case, wore Confederate buttons. Franklin J. Moses was made temporary chairman and D. L. Wardlaw was the permanent presiding officer.

Alldrich, from the Barnwell district, presented a resolution that the State should endure patiently the evils it cannot avert or correct, and await calmly a delivery from

unconstitutional rule. This was opposed as inappropriate under the circumstances. Governor Pickens said that it was unnecessary for South Carolina to bluster, as all about was the wreck of war, showing her earnestness. "She bids us bind up her wounds and pour in the oil of peace,—bids us cover her great nakedness; and this we must do, even if it needs that in so doing we go backwards." General McGowan, bearing marks of wounds, eloquently denounced the resolution. He said: "The work South Carolina begins to-day, she begins in good faith. She was the first to secede, and she fought what she believed to be the good fight with all her energies of heart and head and hand and material resources. Whatever may have been charged against her, no one has ever dared charge her with double dealing. Her word is her bond. She is so poor that it is no figure of speech to say she has lost everything but honor. Pass this resolution, and you rob her of her honor, and bow in the dust the head of every one of her true sons. She has seen enough of war; in God's name I demand that she shall not be made to appear as if she still coveted fire and sword."

The provisional governor sent a message indicating that it was impossible for South Carolina to regain her civil rights until she voluntarily abolished slavery, and that "the radical Republican party North are looking with great interest to the action of the Southern States in reference to negro suffrage; and whilst they admit that a man should be able to read and write and have a property qualification in order to vote, yet they contend that there should be no distinction between voters on account of color. They forget that this is a white man's government, and intended for white men only. . . . To extend universal suffrage to the freedmen in their present ignorant and degraded condition would be little less than folly and madness. It would be giving to the man of wealth and large landed possessions in the State a most undue influence in all elections on account of his power to vote at will his employees."

The first ordinance introduced was that by Governor Pickens, providing for a repeal of the ordinance of secession. There was a long debate, in a tone more of sadness than defiance even on the part of the few irreconcilables, and in its revised form the ordinance was finally passed by a vote of one hundred and five to three. It simply said, "We, the people of the State of South Carolina, by our delegates in Convention met, do ordain, That the ordinance adopted by us in Convention on the twentieth day of December, in the year of our Lord one thousand eight hundred and sixty, entitled an 'Ordinance to dissolve the Union between the State of South Carolina and other States united with her under the compact entitled The Constitution of the United States of America,' is hereby repealed."

After long debate there was adopted by a vote of fifty-nine to forty-three a provision for emancipation, as follows: "The slaves in South Carolina having been emancipated by the action of the United States authorities, neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall ever be re-established in this State."

The negro question came up incidentally in the struggle between the up-country and the low-country, which ended in the defeat of the seacoast parishes, which had so long wielded the political power of the State. A proposition much advocated was to make representation depend upon the white population and three-fifths of the negroes, as was the case under the Federal Constitution. This, however, was finally voted down, the convention agreeing with Chancellor Inglis in his declaration that it would not be wise at this time to admit the negro in any form as an element into the body politic. Representation in the lower house of the General Assembly, therefore, remained based on white population and taxation. The convention further made provision for recognizing in court the evidence of negroes, extending criminal laws to them, and otherwise recognizing their new condition as freedmen. Their late

masters showed a kindly disposition toward them in this changed situation.

Thus the convention, called under the stress produced by war, made a revolution in South Carolina. It gave to the up-country, the old Presbyterian element, predominance at last over the low-country, the Episcopal and Huguenot influence, which had made the State. Indeed, to satisfy the president, the convention went further and rendered the actual administration more democratic. The governor, presidential electors, and other officials henceforth were to be elected by the people instead of by the legislature, and property qualifications for members of the legislature were abolished.

During the proceedings, certain resolutions were introduced on the subject of the relations of South Carolina to the Federal Union, which was a subject of frequent discussion by the convention. These resolutions were referred to a committee and reported back in a somewhat modified form, but never came to a vote, except that the substance of the last resolution was passed, endorsing the administration of President Johnson, cordially approving the mode of pacification proposed by him, and promising coöperation in the wise measures inaugurated for securing the peace and prosperity of the whole Union. Eye-witnesses testified that while there was no love shown as yet for the Union, there was an honest recognition of defeat and a willingness manifested to do whatever was necessary to build up the country. The general absence of the military element was remarkable, and the leaders were those who had favored the Union so long as secession was an open question. As elsewhere in the South, they had finally gone with their State.

In North Carolina an interesting feature was the meeting of a freedmen's convention a few days before the State convention. This assembly of negroes was not under the domination of white men, and even negroes from other States and those educated at the North were not encouraged. It met pursuant to a call of a committee appointed by a meeting at

Wilmington. The president was Rev. John W. Hood, of Newbern, Northern by birth, but for some time a resident of North Carolina. He sounded the keynote when he said: "We and the white people have got to live together. Some people talk of emigration for the black race, some of expatriation, and some of colonization. I regard this as all nonsense. What they wanted," he said, was "first, the right to give evidence in court; second, the right to be represented in the jury box; and third, the right to put votes in the ballot box. These rights we want, these rights we contend for, and these rights under God we must ultimately have." The leader was John H. Harris, of Raleigh, an upholsterer and teacher, who had been a plantation slave, and had educated himself. The convention declared that it ought not to be the policy of the colored people to flock to the city in large numbers, and urged them to remain at home in their old employments. The convention further expressed reverence for John Brown and Abraham Lincoln, favored the abolition of slavery, the organization of the Freedmen's Bureau, the establishment of schools, and thanked the Republican party for its efforts. The memorial to the State convention, however, omitted reference to these matters, and, reciting the intimacy of relationship unknown in any other state of society and their attachment to the white race, which must be as enduring as life, asked for legislation to correct injustice between employer and employé, for education, and for the removal of oppressive laws making unjust discrimination on account of race and color.

The State convention included several of Governor Holden's provisional judges and solicitors, members of his military staff, and a few of the delegates to the secession convention, but the Confederate leaders generally took no share in the movement. The sessions were held in the hall of the House of Commons, where secession had been declared. The permanent president, E. G. Reade, characterized the object of the meeting as "going home," and urged the convention to "grasp hard again the hand of friendship which stands

at the door . . . of the old homestead." The principal debate was on the ordinance of secession, and finally, after a bitter fight, the convention took the extreme step of declaring "That the ordinance of the Convention of the State of North Carolina, ratified on the 21st day of November, 1789, which adopted and ratified the Constitution of the United States, and all acts and parts of acts of the General Assembly ratifying the same, are now, and at all times since the adoption and ratification thereof have been, in full force and effect, notwithstanding the supposed ordinance of the 20th day of May, 1861, declaring that the same be repealed, rescinded, and abrogated; and the said supposed ordinance is now, and at all times hath been, null and void." The vote was one hundred and five to nine.

The abolition of slavery took less time, and, while referring the freedmen's memorial to the legislature as the more appropriate forum, the convention adopted a careful report to the effect that it had now become the duty of the State to assume the charge of the freedmen and to enact such laws as right and justice may require; and that it was to the interest of the white race to improve and elevate the negro by such laws as would encourage him to seek his true welfare and honest industry. It went on to declare that prejudices of a social character will probably forever exist, as they have pervaded every society where the two races have been brought in contact, that such prejudices must be respected so far as to avoid rash attempts which would further inflame them, and that questions growing out of the new relations should be kept from the arena of party politics. The attachment declared by the negroes was reciprocated, and the provisional governor was requested to appoint a commission to consider a system of laws on the subject of freedmen, to be reported to the legislature.

This convention was more strongly Unionist than that of South Carolina, and yet was disposed to retain the war debt of the State, probably because it was held by institutions and individuals within the State. In fact, it needed

a telegram from President Johnson to Governor Holden, that "every dollar of the debt created to aid the rebellion against the United States should be repudiated finally and forever," to make the convention repudiate the debt.

The Union flag, after some delay, had been hoisted upon the hall; no like act was done in South Carolina or was to be done in Georgia. The convention was notable in showing a revival of the old party lines between Whigs and Democrats. Left to themselves, these two parties would no doubt spring up again, at least as to State matters. In one respect the outlook was not encouraging. The men who had stayed in hiding and evaded enlistment during the war and who now took the leading parts in politics, could hardly command the full respect of their own people or of onlookers. Observers were not favorably impressed with this brand of Unionism.

The Georgia convention met on October 25th, and Herschel V. Johnson was elected president. Among the leaders were Charles J. Jenkins and Joshua Hill, and on the outside Governor Brown was almost as influential. The old and the new governors dwelt together in harmony, for Brown still occupied the executive mansion, and the provisional governor, James Johnson, had rooms there. Joseph E. Brown had come from the mountain country of Georgia corresponding to that of Tennessee, and his rugged character was not unlike that of Andrew Johnson. After Brown was released from prison he had an interview with the president and now desired to see Georgia accept the situation and go forward under the new conditions.

Jenkins reported an ordinance repealing the secession and cognate measures, which was passed unanimously and without discussion. Hill had some idea of substituting the North Carolina form to the effect that the secession ordinance now is and always has been null and void, but he did not press it to a vote. After a recital that the government of the United States had as a war measure effected emancipation, it was declared that thenceforth there should be neither

slavery nor involuntary servitude, except for crime, but this was not to affect any claim of individuals for compensation. A memorial was adopted asking pardon for Jefferson Davis, A. H. Stephens, and other leading Confederates. It was made the duty of the General Assembly to provide laws suited to the new civil relations of the free persons of color. State officials were retained, little change was made in representation, and all laws and proceedings enacted and enforced during the war were validated. The intermarriage of white persons and persons of African descent was forever prohibited, and officers aiding in such miscegenation were declared liable to punishment.

An interesting matter was the acceptance of what was called the "wise and liberal proposition" of General Tillson, superintendent of the Freedmen's Bureau. The convention authorized any civil officer or citizen to act under his direction as agent of the bureau in adjusting difficulties between the white and colored populations of the State.

The principal debate in the South Carolina Convention related to the form of prohibiting slavery; in North Carolina to the repeal of the secession ordinance; while that in Georgia was as to repudiation of the war debt. In fact, there was reluctance on the subject in all the States, and it reflected honor upon a poverty-stricken people that they would renounce a heavy debt only under compulsion. In Georgia it amounted to thirteen million dollars, besides four million for governmental expenses. The question was settled at last by a telegram from the president, and reluctantly the debt was repudiated by a vote of one hundred and thirty-five to one hundred and seventeen. In this feeling there was no distinction between Union men and the old Secessionists.

The only remaining convention, except that of Texas, which acted in the following year, was that of Florida, which met on the same day as that of Georgia. This convention annulled the ordinance of secession and some days afterward abolished slavery, reciting that it had already been destroyed in the State by the government of the United States.

Negroes acquired the right to testify in all cases wherein their own race was concerned. A bill was passed submitting the question of the war debt to the vote of the people, but, upon learning that rejection was a prerequisite of recognition by the president, repudiation was directly declared.

The first step in the rehabilitation of the Southern States had been presidential,—the proclamation of amnesty and the appointment of provisional governors for the States. The next taken was the act of the conventions in abolishing slavery, in repealing or annulling the ordinance of secession, and, except in Mississippi, in repudiating also the war debt. The final step would be the election of regular civil officials.

This last was important from two points of view. In the first place, it meant the restoration of civil government in the respective States, prepared to deal with the pressing problems which required legislation. In the second place, an amendment to the Federal Constitution had to be submitted to the several legislatures for adoption. Congress, on February 1, 1865, during the pendency of the war, proposed to the legislatures of the several States an amendment providing that "neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction," and in the second article giving Congress power of enforcement by appropriate legislation. The object was to remove all doubt as to the validity of emancipation, for Lincoln's proclamation was only a war measure, and at the best did not affect loyal States. It was necessary for some of the Southern States to ratify it in order to secure adoption by the requisite number, and President Johnson instructed the provisional governors to see that this was done.

The State campaign in Mississippi was fought out on the issue of admitting negro testimony in the courts, and the reactionary faction succeeded. General B. G. Humphreys was elected governor, although he had not been pardoned. A pardon, however, was now granted at the request of

Sharkey. The president retained Sharkey in office for some time after the election, and urged him to see to the adoption of the anti-slavery amendment. Mississippi has always been pronounced in views and acts. Whether right or wrong, there has never been any question as to where the State stood. Even the pressure of surrounding circumstances failed to move it in this instance, and the legislature refused to adopt the proposed amendment. The senators chosen were Provisional Governor Sharkey and James L. Alcorn, a planter of Northern birth who had long been identified with the State. Both were inclined to accept the situation and break with past feelings and associations.

James L. Orr was inaugurated Governor of South Carolina, and on November 13th, after special instructions from Washington, the legislature ratified the proposed amendment, with a rider that it was not to be construed as giving Congress authority by its second section to legislate upon the political or civil status of the former slaves. This was perhaps influenced in part by a convention of freedmen in that month who took the forward step of demanding suffrage and equal rights in all respects. Benjamin F. Perry and John L. Manning were elected senators.

In November, the legislature of Alabama met, and on December 2d they adopted the proposed amendment, also with a rider. Seward, on behalf of the president, congratulated Governor Parsons, saying that Alabama was the twenty-seventh State and so filled up the complement of two-thirds, thus making the Thirteenth Amendment a part of the organic law of the land. R. M. Patton had been elected governor and now qualified, and L. E. Parsons and George S. Houston were elected senators. The North Carolina legislature ratified the proposed amendment with only six dissenting voices, and a week later Jonathan Worth was inaugurated governor, having defeated provisional governor W. W. Holden. On December 4th the legislature of Georgia met, and the next day ratified the amendment. The session was perhaps even more famous later for a widely

reported address by A. H. Stephens, only lately returned from prison. He it was who at the outbreak of the war had rejoiced that the Confederacy had established a new political principle and made slavery its cornerstone: he now compared the State to one suffering from a compound fracture, and advocated patience and an honest readjustment to the new conditions. Stephens and Herschel V. Johnson were elected senators. In December the Florida legislature assembled and on the 28th ratified the proposed amendment, with a rider similar to that adopted by South Carolina. Florida selected her provisional governor and Wilkerson Call as senators.

Thus the Southern States which had not been reorganized by Lincoln in war times were all restored under the policy which he bequeathed to his successor. This result was generally approved throughout the whole country. Henry Ward Beecher even applied to it the text "Thus far the Lord hath led us,"—as if adopting the suggestion of Johnson's inaugural,—and in one of his eloquent and unique political sermons in the Brooklyn pulpit, he unqualifiedly endorsed the president. Beecher favored negro suffrage, but recognized that this was a matter for each State to regulate for itself and that it could not be pressed upon the South as long as it was denied in the North. He declared against the desire of some to humiliate the Southern people, and rejoiced that they were not made to lose their self-respect. "A man who too readily gives up his theory and doctrines," said he, "cannot make a desirable citizen. I expect them to retain their doctrines but accept the facts."

Johnson's plan of restoration was the same as Lincoln's, with one or two changes. Lincoln did not hesitate to suggest to the States what he thought should be done, but it was by way of private intimation, recognizing that electorates were properly created only by the States concerned. Johnson, on the other hand, was masterful in manner and excepted more classes from his amnesty. His old political bias against the "slave aristocracy" showed

itself, particularly in the exception from amnesty of all ex-rebels worth \$20,000 and upward. He adopted the view of Congress that loyalty should be determined by the past, except that he was willing out of the plenitude of his mercy and power to pardon almost anyone in the excepted classes who confessed error and applied for amnesty. The result might be almost the same from the action of Lincoln as from that of Johnson; but there was flexibility about Lincoln's plan, and humiliation to the rebels in that of Johnson. However, Lincoln was dead, while Johnson's policy had now been worked out and was in force.

It would seem on the whole that the future was assured. The firmness of Andrew Johnson had obliterated much of the past. Slavery, secession, and the validity of the war debt were all gone. Popular government existed everywhere and representatives and senators had been chosen. Even the mistake of causing anarchy by not recognizing the local governments had now been corrected, and peace and order prevailed where six months before had been known only bloodshed. The Union was restored.

CHAPTER IV

FEDERAL REGULATION OF THE FREEDMEN

PENDING the reorganization of the Southern governments there were other than political questions to be attended to. So far as the white people were concerned, they could be trusted to work out gradually some methods by which to start life anew. With the negroes it was not so, for they thought emancipation had changed even more than it had. If they were not yet considered from a political point of view, at least much had been done and was to be done for them. The church and educational work among them can be better treated in another place, but the social and economic side of the revolution dated back even before emancipation and should be examined. At the close of the war the institution known as the Freedmen's Bureau took charge of all interests of the negroes, constituting an *imperium in imperio*, a kind of special Federal jurisdiction of the new wards of the nation. From this institution came the first impressions and organizations of the new citizens, and these had received such a bias before the restored State governments came into being that it was difficult to change them.

The movement began long before it appeared necessary to create a special governmental department for freedmen's interests. Quite early in the civil war the negro had become a problem. At first it was one which concerned only the military commanders, and concerned them more or less, according to their sympathies. Some attempted to

emancipate the slaves, others to preserve the *status quo*. But, as the Southern territory was occupied and the armies went further South, negroes, even where they did not seek freedom, became disorganized and refugees crowded the northern camps. So far as concerned the Confederates the declaration of General Butler at Fortress Monroe that the negroes were "contraband of war" was a happy solution of the difficulty. This proceeded on the idea, that, as they were property which aided the South, the invading army could use them for any purpose for which it saw fit. Being men and women, however, as well as property, they needed special attention, and much good was effected by the energy of E. L. Pierce in Virginia and subsequently on the Carolina coast, for the capture of Port Royal and the Sea Islands extended the sphere of the problem at an early date.

The Federals looked at the matter from two points of view. In the first place the negro refugees had to be supported, but in the second place the expense of this became such a burden that some disposition must be made of them. Butler and other commanders, particularly after the Emancipation Proclamation, began arming them, and thus not only employed what would otherwise be useless hands, but strengthened the Union forces. Lincoln as well as others tended at first toward schemes for colonization, whether in Liberia, Mexico or the West, and appropriations were made to that end; but the negroes did not wish to leave the country and their general use as soldiers or otherwise soon became a part of the northern policy. Grant faced the same difficulty along the Mississippi River during his operations of 1862 and later, and Captain John Eaton did much to improve the situation of the negroes in that part of the field of war. Before the surrender there were almost 179,000 black troops, besides many negroes in other departments.

General Banks adopted in Louisiana another method of dealing with the difficulty. He provided for the employment of negroes upon public works, including the operation of plantations and lands which fell within Union

control, and his regulations to this end were full and showed appreciation of the necessity for making the ex-slaves work. The plan was opposed and even denounced by many well-wishers of the negro on the ground of being a veritable re-establishment of slavery.

The operations of war had caused large tracts of land, including fine plantations, particularly along the Mississippi, to fall into Federal control. The flight of the owners and the breaking up of the slave quarters made it impracticable for regular husbandry to continue in the manner which would be usual in an invaded country after the advance had become a practical occupation.

The policy of the United States was declared in a circular published at Natchez, October 27, 1863, as follows:

"I.—The primary objects are to line the banks of the Mississippi River with a loyal population and to give aid in securing the uninterrupted navigation of the river, at the same time to give employment to the freed negroes whereby they may earn wages and become self-supporting.

"II.—The property of disloyal persons of right belongs to the United States, and when required may be taken. Such is the case with plantations, crops, etc., owned by them, which the commissioners may take possession of and lease the plantations to loyal citizens.

"III.—The plantations of men of undoubted loyalty, especially those who have been so from the beginning of the rebellion, will be occupied and managed by themselves or leased by them to loyal citizens. In case they do neither, the commissioners may take possession and lease, as in the above case.

"IV.—Men of doubted loyalty, if permitted to cultivate their plantations, will be required to take as a partner a loyal citizen."

Jefferson Davis's plantation near Vicksburg, known as Davis's Bend, was sacked during Farragut's ascent of the river in 1863, and later this estate of 10,000 fertile acres was by General Dana "consecrated as a home for the

emancipated." The order set it apart as "a suitable place to furnish means and security for the unfortunate race which he (Davis) was so instrumental in oppressing." Accordingly it was garrisoned by negro troops and under government supervision cultivated as the Freedmen's Home Farm for Mississippi. The *New York Times* noted the poetic justice by which this "nest in which the rebellion was hatched had become the Mecca of freedom."

The army could not in the long run look after such matters, and thus legislation finally turned over to the treasury department the management of captured property. The act of March 3, 1863, provided for the transportation and sale of cotton, sugar and similar products, the proceeds to be accounted for to owners in proper cases after the close of hostilities. It was found the best policy to have abandoned and captured property handled and disposed of by special agents of the treasury rather than leave it to demoralize officers and soldiers. Anything not handled by such agents was confiscated to public use and punishment was provided for persons handling it. There had been early in the war acts for the prohibition of intercourse between the belligerent sections, but it was found proper to modify this policy in some respects from time to time. On July 2, 1864, further provisions were made on the subject, and in particular the law as to abandoned property was extended to cover lands as well as personal property. The government agents were to take charge of such real property and lease it out, not exceeding twelve months at a time, thus providing for the employment and general welfare of the former slaves. It was provided that "property, real, or personal, shall be regarded as abandoned when the lawful owner thereof shall be voluntarily absent therefrom, and engaged, either in arms or otherwise, in aiding or encouraging the rebellion." The money arising from such leases and sales was to be paid into the Federal treasury. The power to make detailed regulations on the subject covered by the new act was vested in the secretary of the treasury with the approval of the

president. The administration of this system, particularly in the West, was much aided by the efforts of Yeatman, who was active in carrying out the plans of voluntary sanitary commissions.

General Lorenzo Thomas, by Orders No. 9, March 11, 1864, under direction of the secretary of war, published for the information of all concerned full regulations respecting the leasing of plantations and the management of freedmen within the limits of the military division of Mississippi. Occupation of plantations and the employment of freedmen were declared the settled policy of the government, and the regulations, which generally are word for word with those of Banks in Louisiana, are as follows:

"I. The enlistment of soldiers from plantations under cultivation in this department, having been suspended by order of the Government, will not be resumed except upon direction of the same high authority.

"II. Provost-marshals shall be distributed at convenient points in the neighborhood of leased plantations, whose duty it shall be to see that justice and equity are observed in all relations between employers of freedmen and those employed, and to exercise such other police duties as shall be assigned to them by the district commanders appointing them. The districts over which they shall exercise these duties shall be called police districts.

"III. Provision will be made for the establishment of a sufficient number of schools—one at least for each of the police districts—for the instruction of colored children under twelve years of age, which will be established by and placed under the direction of the superintendent of public education.

"IV. Soldiers will not be allowed to visit plantations without the written consent of the commanding officer of the regiment or post to which they are attached, and never with arms, except when on duty, accompanied by an officer.

"V. Plantation hands will not be allowed to pass from one place to another, except under such regulations as may be established by the provost-marshal of the police district.

"VI. Flogging and other cruel or unusual punishment are interdicted.

"VII. Planters will be required as early as practicable after the publication of these regulations to make a roll of persons employed upon their estates, and to transmit the same to the provost-marshal of the district. In the employment of hands the unity of families will be secured as far as possible.

"VIII. All questions between the employer and the employed, until other tribunals are established, will be decided by the provost-marshal of the police district, subject to appeal to the higher authorities.

"IX. Sick and disabled persons will be provided for on the plantations to which they belong, except such as may be received in establishments provided for them by the Government at the freedmen's home farms, which establishments shall be under the exclusive control and direction of the respective superintendents thereof, and all commanders of military forces stationed thereon will see that all proper military protection is afforded, and will aid in carrying out the police regulations thereof as desired by the superintendents.

"X. The unauthorized purchase of clothing or other property from laborers will be punished by fine and imprisonment. The sale of whiskey or other intoxicating drinks to them or other persons, except under regulations established by the commander of the district, will be followed by the severest punishment.

"XI. The possession of arms or concealed or dangerous weapons, without authority, will be punished by fine and imprisonment.

"XII. Laborers shall render to their employer, between daylight and dark, ten hours in summer and nine hours in winter, of respectful, honest, faithful labor, and receive therefor, in addition to just treatment, healthy rations, comfortable clothing, quarters, fuel, medical attendance, and instruction for children, wages per month as follows, payment

of one-half of which, at least, shall be reserved until the end of the year, and lessees will discourage all payment of monthly wages as far as it can be done without discontent, and reserve the same as above stated: The minimum wages for males over fourteen years of age, and competent to do a well man's work, \$10 per month; for females over fourteen years of age, and competent to do a well woman's work, \$7 per month; children from twelve to fourteen years of age, inclusive, and of those too feeble to earn full wages, half the above amounts will be paid, or a specified amount to be agreed upon by the employer and the employed, subject to the approval of the superintendent of the freedmen's home farm nearest thereto. Engineers and foremen, when faithful in the discharge of their duties, will be paid such additional sums as shall be agreed upon and approved by the proper home farm superintendent. This schedule of wages may be commuted by agreement between the employer and the employés, subject to approval as above. Wages will be deducted in case of sickness, and rations also when sickness is feigned. Indolence, insolence, disobedience of orders, and crime will be suppressed by forfeiture of pay—such forfeitures to go to the fund for the support of the helpless freed people—and such punishments as are provided for similar offenses by Army Regulations. Sunday work will be avoided when practicable, but when necessary will be considered as extra labor, and paid at the rates specified herein.

“XIII. When laborers are furnished with employment they will be held to their engagement for one year, under the protection of the Government. In cases of attempted imposition, by feigning sickness or stubborn refusal of duty, they will be turned over to the provost-marshal of the police districts for labor upon the public works without pay.

“XIV. Laborers will be permitted to cultivate land on private account, as shall be agreed between them and the employers, subject to the approval of the provost-marshal of the district. The encouragement of independent industry

will strengthen all the advantages which capital derives from labor, and enable the laborer to take care of himself and prepare for the time when he can render so much labor for so much money, which is the great end to be attained.

"XV. To protect the laborer from possible imposition no commutation of his supplies will be allowed, except in clothing, which may be commuted at the rate of \$3 per month. The crops will stand pledged, wherever found, for the wages of labor.

"XVI. It is advised, as far as practicable, that employers provide for the current wants of their hands by perquisites for extra labor or by appropriation of land for share cultivation.

"XVII. A free labor bank will be established for the safe deposit of all accumulations of wages and other savings; and in order to avoid a possible wrong to depositors, by official defalcation, authority will be asked to connect the bank with a treasury of the United States in the Military Division of the Mississippi. . . .

"XX. These regulations are based upon the assumption that labor is a public duty and idleness and vagrancy a crime. No civil or military officer of the Government is exempt from the operation of this universal rule. Every enlightened community has enforced it upon all classes of people by the severest penalties. It is especially necessary in agricultural pursuits. That portion of the people identified with the cultivation of the soil, however changed in condition by the revolution through which we are passing, is not relieved from the necessity of toil, which is the condition of existence with all the children of God. The revolution has altered its tenure, but not its law. This universal law of labor will be enforced upon just terms by the Government, under whose protection the laborer rests secure in his rights. Indolence, disorder, and crime will be suppressed. Having exercised the highest right in the choice and place of employment, he must be held to the fulfillment of his engagements until released therefrom by the

Government. The several provost-marshals are hereby invested with plenary powers upon all matters connected with labor, subject to the approval of the commanding officer of the district. The most faithful and discreet officers will be selected for this duty, and the largest force consistent with the public service detailed for their assistance.

"XXI. Employers, and especially overseers, are notified that undue influence used to move the marshal from his just balance between the parties representing labor and capital will result in immediate change of officers, and thus defeat that regular and stable system upon which the interests of all parties depend.

"XXII. Successful industry is especially necessary at the present time, when large public debts and onerous taxes are imposed to maintain and protect the liberties of the people and the integrity of the Union. All officers, civil or military, and all classes of citizens who assist in extending the profits of labor and increasing the products of the soil, upon which in the end all national prosperity and power depend, will render to the Government a service as great as that derived from the terrible sacrifices of battle."

These regulations went on the principle that labor was a duty, to be enforced by the public authorities, and in this as well as in the establishment of liens, shares and a bank we find the germs of much of the coming legislation, State as well as Federal.

Long before the surrender of the Southern armies it had seemed to many that the freedman had become in many respects a ward of the nation, requiring at least as much attention as the Indian, and that there should be a governmental department or bureau devoted to his needs separate from the regular military administration. Several bills on the subject were introduced from 1863 on, and one passed the House, but was lost, for the time being, in consequence of amendments in the Senate. In the beginning of 1865 a measure was reported in the Senate for the creation of a Bureau of Freedmen, Refugees and Abandoned Lands. Some

members opposed it as substituting for the old overseers and negro drivers "broken down politicians and dilapidated preachers, too lazy to work and a little too honest to steal," but it finally passed both houses and received the signature of President Lincoln. General Sherman thought it impracticable and Horace Greeley favored it as little, but nevertheless it established in the War Department for the duration of the war and one year afterward a bureau which should have the supervision and management of abandoned lands and all subjects relating to refugees and freedmen from districts embraced in the operations of the army. It was to be managed by a commissioner appointed by the president, aided by an assistant commissioner in each of the States in insurrection, and army officers might be assigned to service without additional pay. The commissioner must report annually and the assistants oftener. Provisions, clothing and fuel might be issued by the secretary of war, and it seemed to be contemplated that not only could abandoned or confiscated lands be rented out for the term of three years or less, but that the tenant could purchase not exceeding forty acres from the United States. No appropriation went with the bill and the operations of the Bureau were to be paid out of the confiscated property.

For the position of commissioner, Lincoln selected General O. O. Howard, who had been in service in Mississippi, won honor at Gettysburg, and had been with Sherman in the March to the Sea. He knew the South and was highly esteemed there.

Johnson approved Lincoln's choice and on May 15, 1865, Howard entered upon the duties of the office. A building was assigned and he proceeded to systematize the business of the Bureau. The ten States were made ten districts and for each an assistant commissioner was appointed. Thus, the District of Columbia, with Maryland and adjacent portions of Virginia, were put under the charge of Colonel John Eaton, Jr., with headquarters at Washington. Virginia, under Colonel Orlando Brown, with headquarters at

Richmond; North Carolina, under Colonel E. Whittlesey, at Raleigh; South Carolina and Georgia were under General Rufus Saxton, at Beaufort, S. C.; Florida, under Colonel T. W. Osborn, at Tallahassee; Alabama, under General Wager Swayne, at Montgomery; Louisiana, under Chaplain T. W. Conway, at New Orleans; Mississippi, under Colonel Samuel Thomas, with headquarters at Vicksburg; Kentucky and Tennessee, under General C. B. Fiske, at Nashville; Missouri and Arkansas, under General J. W. Sprague, at St. Louis; and Texas, under General E. M. Gregory, with headquarters at Galveston. All these were soldiers, familiar with conditions at the South, and in addition to that, Eaton, Brown, Saxton, Fiske and Conway had already been connected with freedmen's affairs and might be expected to give the benefit of their experience to their new offices.

The close of the war and the emancipation of the slaves had changed the relation between capital and labor not only around the armies but over the whole South. Rightly handled there could be a readjustment upon a contract basis, provided the negro would labor, and this was the task of the Freedmen's Bureau. In the early part of May, 1865, even before the appointment of assistant commissioners in different States, labor regulations were issued for Mobile. These stated that laborers would be allowed and encouraged to make voluntary contracts with their former masters and other persons, to be submitted, however, to the superintendent of freedmen, and registered if approved by him, and a register of unemployed persons was kept at the Freedmen's Bureau, where application should be made by employers. The wages prescribed were ten dollars per month for hands, either male or female, of the first class, and ranging from that down to two dollars for girls under fourteen. Colored persons showing that they had a trade were allowed to work at two dollars and a half a day for first-class hands of either sex, and mechanics were to receive not less than five dollars per month in addition, all wages to be paid quarterly.

Contracts should be for not less than three months and must secure to the laborer just treatment, wholesome food, comfortable clothing, quarters, fuel and medical attendance. It was further prescribed that "the laborers must understand that it is for their own interest to do their work faithfully, and that the Government, while it will protect and sustain them against ill treatment, will not countenance idleness and vagrancy, nor support those who are capable of earning an honest living by industry. When they have once selected, they must fulfil their contract, and will not be allowed to leave their place of employment (except in cases when they are permitted so to do by the Superintendent), and if they do so leave without cause and without permission, they will forfeit all wages earned to the time of abandonment, and be otherwise punished as the nature of the case may require. Wages for the time lost will be deducted in case of sickness, and both wages and rations where the sickness is feigned for purposes of idleness, proof of which will be the certificate of the Medical Officer in attendance, and in cases of feigned sickness, or refusal to work according to contract, when able to do so, such offender will be reported to the Superintendent, and put upon forced labor on the public works without pay."

These regulations were not unsuited to the conditions of the time and recognized that the negroes were not yet competent to make absolutely free contracts. Commissioner Howard, on May 30, 1865, prescribed rules for enforcement by the assistant commissioners, who were to make all haste to acquaint themselves with their fields, do all in their power to quicken and direct the industry of refugees and freedmen, and make every effort to render the people self-supporting. "Negroes must be free to choose their own employers, and be paid for their labor. Agreements should be free, *bona fide* acts, approved by proper officers, and their inviolability enforced on both parties. The old system of overseers, tending to compulsory unpaid labor and acts of cruelty and oppression, is prohibited. The unity of families,

and all rights of the family relation, will be carefully guarded. In places where the local statutes make no provisions for the marriage of persons of color, the assistant commissioners are authorized to designate officers who shall keep a record of marriages, which may be solemnized by any ordained minister of the gospel, who shall make a return of the same with such items as may be required for registration at places designated by the assistant commissioner. Registrations already made by the United States officers will be carefully preserved." General Howard further directed that sanitation and education were to be specially looked after and freedmen aided in securing titles to land.

In July of the same year, instructions to officers of the Bureau provided that the offices of agents should be at points easy of access for the people, and the agent should inquire what had been the hire of able-bodied men when their pay had gone to the master, so as to make an approximate test of the value of labor. The laborer must be protected against avarice and extortion, and his wages secured by a lien on the crops or land, and incidentally the renting of lands to freedmen by farmers was mentioned with approval. Compulsory unpaid labor except as a legal punishment was not to be allowed. Although these regulations had resulted in some suffering, it was declared that "suffering was preferred to slavery, and was to some extent the necessary consequence of events." In all cases the officer should never forget that no "substitute for slavery, like apprenticeship without proper consent, or peonage, (i. e., either holding the people by debt, or confining them, without consent, to the land by any system), will be tolerated." An agent was to be designated to act as general superintendent of schools in each State, and work as much as possible in conjunction with the State officers who in future might have such matters in charge.

The instructions declared that "all public addresses of a character calculated to create discontent are reprehensible;

but the assistant commissioner and his agents must explain, by constant recapitulation, the principles, laws, and regulations of this bureau to all parties concerned. It is recommended to the assistant commissioners to draw up in writing a careful summary, to be publicly and privately read by agents throughout their respective districts."

These regulations were made by General Howard, and each assistant commissioner issued instructions for the guidance of his agents. Thus in December, 1865, General Baird, of Louisiana, prescribed amongst other regulations that twenty-six days of ten hours each in summer and nine hours in winter, between the hours of daylight and dark, should be considered a month, and work in excess was to be paid for as extra labor. The rations to be furnished consisted of one peck of corn-meal and five pounds of pork or bacon per week, to be taken into account in fixing the rate of wages. Clothing was also prescribed and sufficient quarters to contain accommodation for cooking, and in addition a half acre of land contiguous to the houses for family gardening. Supplies might be purchased from the employer, who in such case must keep a regular book account and sell at the usual market rates, all subject to the inspection of Bureau agents. Contracts could be based on division of the crop, and five per cent of the monthly wages was to be retained and paid over for negro school purposes. Should the laborer leave the plantation or refuse to work, he was to forfeit all wages due at the time of leaving, and violation of reasonable rules, disrespect to the employer or family and the like, were grounds of discharge, and furthermore the negro could be compelled by the Bureau to remove his family from the premises. Failure to make application for redress would be considered as *prima facie* evidence against the laborer. No restraints or disabilities could be imposed upon the freedmen that were not imposed upon white men, and the agent in his discretion might compel the employer to give security that he would issue the proper supplies. All crops and property on a plantation were covered by a lien

for employees' wages, which would follow the crops and property into any and all hands. The planter was taxed one dollar a hand to reimburse the United States some portion of the expense of the system and for supporting the helpless.

In many places the freedmen refused to enter into contracts because of the belief that the United States would distribute lands among them. Colonel Brown, in September, 1865, directed the superintendent and agents in Virginia to make it plain that no land would be given by the government. The small quantity in hand could only provide homes for a few families and would pass only by purchase or lease. The agents were to explain that the system of contract was in no way connected with slavery, and the renting of tracts by the farmer to his laborers was advocated as mutually beneficial.

Circular No. 1 of General Gregory announced that every encouragement would be rendered to the Texas planter to assist him to adapt himself to the new conditions of labor, but he must realize that "the day of the lash and corporal punishment was past and must give way to law and moral power. Man must learn to govern himself before he can expect to govern others." Gregory thought that if the planter would meet the negro in a spirit of justice and kindness there would be no difficulty in controlling labor.

Colonel Thomas noticed the opposition so generally shown in Mississippi to the education of colored people, although he recognized it as natural that a master should despise those who had been degraded by bondage, and that contempt should be coupled with the old hatred of escaping slaves. This feeling he thought should be met by argument showing that it was best for all to allow the negro to acquire the knowledge which would protect him. The fear of negro insurrection could be removed by assurance that kind treatment would prevent this result, for "despair is often neither gentle nor wise, and it may drive the colored people into vagrancy and robbery." He thought that the

neighborhoods which feared insurrection were likely those in which the colored people were oppressed, that it was conscience which awakened fear. It would be wise to give negroes frankly whatever white men in their places might justly claim, and, if this was not done as to school houses, the buildings would not be secure. The whites were to be assured that the Freedmen's Bureau stood disinterested, not partaking of the prejudices of the whites, and free from corrupt bias toward the blacks.

Official reports reveal how far the initial steps were successful. On December 2, 1865, General J. S. Fullerton says that in Louisiana he acted on the democratic idea that there should be the same code of laws for all, that every exceptional law for the black man was but a recognition of the spirit of slavery. He met most opposition not from the native whites but from others "who constantly held out to the freedmen that they were privileged people, to be pampered and petted by the government, and the effect was most pernicious." Some local agents through a mistaken notion of kindness to the blacks destroyed the confidence that should exist between them and the planters who were endeavoring to give free labor an impartial trial. To his mind the freedmen of Louisiana were in a better condition than those of any other State; there was not an able-bodied man who could not get employment at good wages, for the planters were very desirous of restoring their fortunes by cultivating the devastated fields, of which not over one-fifth were under cultivation, against nine-tenths previous to the war. Four hundred thousand hogsheads of sugar and the same of molasses had been made before the war, while the crop of 1865 would not yield over twelve thousand hogsheads of sugar and fourteen thousand barrels of molasses. The enmity against the black race in the South came principally from the poor whites, of whom few remained in Louisiana, however, and Fullerton found a growing disposition on the part of the planters to act justly and fairly toward the freedmen and to secure to them the exercise

of their legal rights. It was not true that there were great numbers of freedmen murdered by the whites, and by telling only the bad acts that had been committed and making these an index to society any large community could be pictured as barbarous. He had no doubt that in five years, unless some element of discord intervened, the freedmen would work as well and be in as prosperous condition as any person could desire, and that the rich and beautiful plantations would be far better cultivated and more profitable than ever in the past.

An instance of those making the contrary showing was found in Chaplain T. W. Conway, who said before a congressional committee in 1866 that he was under the painful conviction that if the Freedmen's Bureau was withdrawn the result would be fearful in the extreme. The negroes would be murdered by wholesale and in their turn would defend themselves, with the result of slaughter which the world had never known before. "The Southern rebels when the power is once in their hands will stop at nothing short of extermination," for such threats had been made by prominent people in his own hearing and he believed it was their fixed determination. To his mind the only salvation for the freedmen was the strong arm of the government, for the wicked work had already commenced.

Assistant Commissioner Swayne reported from Alabama that Governor Patton vetoed measures which did not afford equal rights to the negroes. The contract plan was already established and in favor with planters because enforced by labor regulations issued by the Bureau, and, as idleness was extremely prevalent, Swayne carried out the system. At the same time, he was inclined to think the less regulation the better, for, says he, "it has all the while been my opinion that the freedmen would be found to be best governed by the same measures as are most effectual with ourselves, and only injured by artificial regulations. The true incentives to labor in the free States are hunger and cold, and it was only injurious expectations of parcelling out at Christmas

that made freedmen evade these, in some measure, until Christmas came. This artificial barrier removed, normal relations were immediately established. The true security of labor, also in the free States, is that whenever the laborer finds himself ill-treated, or his wages insufficient or unsafe, he can quit without having to account to anybody. This is more and better than all laws. And the demand for labor will, I think, keep the freedmen secure here in this particular. It certainly makes him so now."

Kentucky was not so satisfactory to the Bureau, and General Fiske wrote that "there are some of the meanest, un-subjugated and unreconstructed rascally rebellious revolutionists in Kentucky that curse the soil of the country. They claim now that although the amendment to the Constitution forever abolishing and prohibiting slavery has been ratified, and proclamation thereof duly made, yet Congress must legislate to carry the amendment into effect, and therefore slavery is not dead in Kentucky. Others cling to the old barbarism with tenacity, claiming that the government must pay Kentucky for her emancipated slaves. There are a few public journals in the State which afford great comfort to the malcontents, but the majority of the people of Kentucky hail the dawn of universal liberty, and welcome the agency of the bureau in adjusting the new relations arising from the total abolition of slavery. It is well to remember that a more select number of vindictive, pro-slavery, rebellious legislators cannot be found than a majority of the Kentucky legislature. The President of the United States was denounced in the Senate as a worse traitor than Jefferson Davis, and that, too, before the bureau tempest had reached them."

General Tillson found in Georgia "the fact is becoming more and more evident that hereafter labor and not cotton is to be king. Please mark the prediction. If the government will only continue to stand by the freed people in their just rights simply, then, by the operations of laws infinitely more potential and certain in their execution than those of

Congress, the negro is to be master of the situation, and those who in times past practised cruelty upon him, or who now hate, despise, and defame him, are to be a financially ruined people. To-day the men who have been cruel to their slaves cannot hire freed people to work at any price. Fortunes in the future are for those only whom the freed people can trust and for whom they will work—not for the proud and haughty owner of land merely. Land, good land, will be plenty, a drug in the market; labor will be the difficult thing to obtain, and the friends of the freed people, especially the northern man, can alone command it.”

General Osborn reported for Florida that “the high price of cotton is inducing planters to offer good wages for the next year’s labor. Average wages will be twelve dollars a month for first-class hands, and these graded according to the capacity of the employes for labor. I have reason to believe that comparatively few freed people will be on public charity next year. . . . Self-interest among the planters is doing much for these laborers. The people at large show a spirit of dislike or hatred to the freedmen that is hard to account for. The feeling among the little planters, lawyers, the members of the present legislature, the croakers and other small fry, is contemptible, while the substantial planters have a degree of consideration for the former slaves that could hardly be expected. They are paying quite well for this year, and offering good wages, quarters, and rations for the next, with the privilege of the laborer to keep his family with him at little expense. The little men quite generally attempt to hire single men, or reject those who have families from the plantation. The competition for labor in this State will compel these matters to remedy themselves.”

Most of the great battles of the war had been fought in Virginia, and probably no State suffered quite so much from its results. It was to be expected, therefore, that there would be more bitterness of feeling there than elsewhere, and the people adjusted themselves to the operations of

the Freedmen's Bureau with great difficulty. The agents reported that a good understanding existed generally between the races, but that frequently there was a distrust on the part of the blacks, and that to the whites it was an unpardonable sin for the "nigger" to complain to the "Yankees." The freedmen often brought suits for labor rendered between Lee's surrender and the succeeding Christmas, and the bureau agents gave judgment, although allowing but little if the negroes had been fed, clothed and well treated. An assistant superintendent reports as late as February, 1866, that the purpose of a majority of the whites was to keep the freedmen intimidated, and in this they succeeded. He gave an unfavorable report of the blacks also, in that they could not be induced to make the least effort in the matter of schools, although anxious to send the children if it cost nothing. It was difficult even to get board for colored teachers.

Such was the system enforced by the Federal army officers during the war and after the close of hostilities by the new Freedmen's Bureau, itself a part of the military establishment. It was an interesting experiment, this of the control and reorganization of millions of negroes just set free from slavery. The provisions which we have studied, and they are representative, amply recognize that the freedmen were mere children and in need of guardians not only to protect them but to make them work and become useful members of the society into which they had been thrust. There was at first no law against peonage or one declaring civil rights, but the bureau officials drew from the fact of emancipation the broad inference of civil equality. The principle developed was freedom of the negro to contract, own and use land or other property, and enforce his rights through the courts. In criminal law also there was to be no distinction between the races and punishment meted out to the negroes was to be the same as that for the whites. The equality before the courts necessitated a drawing into the military tribunals of all

litigation in which the blacks were interested, because local laws as a rule forbade the admission of negro evidence, at least where whites were concerned, and on the whole it was being gradually enforced and realized that there was to be no legal discrimination between the races growing out of education, social standing, or development.

Even during the prevalence of military rule some local regulation of the freedmen was by the native whites found necessary. Thus, such was the influx of negroes from the country that some town councils, without waiting for general legislation, tried to protect their communities from being swamped. In Opelousas, Louisiana, before the provisional governments had been instituted in other States, police regulations were passed forbidding freedmen to come within the town limits without special permission from their employers, specifying the object of the visit and the time necessary. So also any negro freedman found on the streets after ten o'clock at night without a written permit might be punished. No negro was permitted to rent or keep a house within the limits of the town, or reside there, unless in the regular service of some white person responsible for the conduct of the freedman. Public meetings of negroes were forbidden for any purpose without permission of the mayor, and this applied also to preaching, exhorting or otherwise declaiming to colored congregations. Firearms could not be borne without permission of the employer and approval of the mayor, and a permit to sell goods was also required. A freedman found drunk was punished by a fine of five dollars or put to labor for five days, and all negroes not residing in town who were found in the corporate limits after three o'clock on Sunday without special permit from their employer or the mayor were also punished. This ordinance was passed in the Louisiana lowlands, where the negroes were numerous, and where there was a State administration recognized almost from the beginning by the Federal government. Vicksburg, similarly situated in Mississippi, had an ordinance providing that draymen, who were

all negroes, should be licensed and give bond for good behavior,—police regulations which were to be much more common than the Opelousas restrictions.

It was not until somewhat later that Carl Schurz was to be considered among the statesmen of the country; but he was a general in the Federal army and his report of conditions as he found them from June to September, 1865, was to have great influence. President Johnson sent him on a mission, which related to the conditions before the restoration of the State governments. Schurz was a man of high standing and unquestionably perfectly honest. He was a German who had fled from oppression at home, and now went over the South with the idea that he was to plan out the relations of two races who should be made equal. He was not willing to see in a system of tutelage, which he called peonage, any advance upon slavery. To his mind the abolition of slavery implied the immediate equalizing of the negro and the Caucasian. Liberty must be followed by equality, and, as it would be difficult to enforce this, he recommended that the military remain in control until the desired result was accomplished, whether it should be one, two or three years. He realized that the revolution at the South was one affecting the whole social system, and the abolition of the personal relation of master and slave was only the beginning of the work. Dissolving that relation was one thing, and the institution of a system of free labor was a very different one, requiring attention and time. For the government to stop short with the first or negative step and turn over the development of the work of the free labor problem to the old masters would to his mind be a calamity which would require drastic measures some time in the future.

As he went from place to place he consulted planters and merchants, the military and Freedmen's Bureau officials, keeping his own eyes open also all the time. He reports hearing frequently of the murder of negroes and of agents of the Freedmen's Bureau and of many instances of lawlessness.

Inexplicable to him was the fact that there seemed to be among the southerners no love for the Union against which they had been fighting earnestly for four long years. The inability to change opinions and customs to his mind argued a fatal defect in the mental make-up of the South, although he also recognized the existence of many thinking people who accepted the situation, even if sometimes subject to a hope of restoration of the Confederacy. None of the provisional governments had followed the example of the military in Tennessee of appointing only loyal men to office, and, indeed, he thought a reactionary movement very apparent, as instanced in New Orleans by the disbanding of the school board created in Butler's time for the purpose of giving the education of children a loyal tendency. Thus, national airs had been frequently sung and other efforts made to impregnate youthful minds with affection for the Union; and yet as soon as possible the acting mayor disbanded the board and appointed a new one, which removed these unpopular features. Schurz found "no danger of another insurrection against the authority of the United States on a large scale, but the people were not impressed with any sense of the criminality of treason." There was among the southern people, he thought, an utter absence of national feeling, and they put up with what they found because they could do no better. There was so much demoralization, especially in the country, that the removal of troops could not be thought of.

The most disturbing feature, to the mind of Schurz, was the southern attitude toward the negro. Almost everyone said that it was impossible to make the negro work without physical compulsion, that the northern people did not understand him. Schurz felt that this was not true. The negroes told him it was not so and he found many instances where the negro did work. It was a fact that to a great extent the negroes were not working; but Schurz attributed this to the excitement incident to new-found freedom, and more particularly to the oppression exercised by the whites.

Efforts made to hold the negro in subjection were particularly atrocious in Alabama, where patrols were posted on the rivers and thoroughfares, and wandering negroes were treated with the greatest severity. A Freedmen's Bureau official reported that they were often waylaid, pursued with hounds and shot or hanged. It might be true that the people who maltreated negroes were few in number, but at least the others did not interfere and the acts of the bold and lawless determined the character of the whole. Even where the conviction was entertained that slavery could not be maintained, many attempts were made to introduce into the new system an element of physical compulsion, particularly corporal punishment. The negro was to be treated as a ward rather than a man free to work or not, as he chose.

A general conviction which Schurz thought a serious obstacle in the way of a successful solution of the problem was, "that the negro exists for the special object of raising cotton, rice and sugar for the whites, and that it is illegitimate for him to indulge like other people in the pursuit of his own happiness in his own way." The negro had been introduced into America for this purpose and was used to nothing else, but emancipation had changed all that and now the whole social fabric was to be made over, and negroes be put in all respects upon a perfect equality with their former masters. Indicative of the contrary erroneous notion of the southerners were the different regulations requiring the negroes to work and not to wander from place to place. This practice infringed their freedom, and so to Schurz was wrong. Even where there were no local regulations, such as the municipal ordinances of Opelousas and Vicksburg on the subject, the disposition of the Southerners was to enforce such a policy and look to compelling the negro to be in the regular service of a white man. These abuses were merely isolated cases, but he deemed them the local outcropping of a spirit which he found to prevail everywhere, of the belief that "the blacks at large belonged to the whites at large."

"Popular education," said Schurz, "is the true ground upon which the efficiency and success of free labor society grow," and yet hundreds of times he heard the assertion that negro education would be the ruin of work in the South. School houses, therefore, could only flourish near the army, and the constitutional right of a northern citizen to teach and preach to the colored people was not protected. At Mobile the bureau officials reported threats to destroy all school houses in which colored children were taught and in two instances they were fired. The same threats were made against all churches in which colored people assembled to worship and one of them was reported to be burned.

The acts of the freedmen, on the other hand, Schurz found commendable. There ought to be a temptation to avenge their old slavery wrongs, but strangely enough, no wrong seemed to be felt, and he could hear of no instance of individual revenge. Many negroes were idle, but he thought the propensity to idleness was not confined to negroes but was strongly developed among all classes in the South. Schurz said that the negroes worked more readily for Northern immigrants, possibly from a kind of gratitude, possibly because these were able to pay in money instead of on shares. He thought the number of colored people supported by the government since the close of the war remarkably small and continually decreasing. He noted the docility of the race as a whole and their tendency to cling to a white man whom they believed their friend with even greater affection than to one of their own race.

The conventions and legislatures dealt with the negro question, he said, only in a way to guard against the dangers arising from sudden emancipation, and nothing was done in the way of providing the blessings of a full development of free labor. The militia laws were in effect aimed at a reestablishment of the patrol system and designed to keep order among negroes. The idea of admitting colored people to the privilege of bearing arms as a part of the militia was uniformly treated as a thing not to be thought of.

The Freedmen's Bureau he found unpopular because it was a barrier to reactionary aspirations. Some abuses were committed in the management of the freedmen's affairs, some of the officers were men of more enthusiasm than discretion; but he felt "warranted in saying that not half of the labor that has been done in the South this year or will be done there next year would have been or would be done but for the exertions of the Freedmen's Bureau."

Schurz thus declared for an economic and social revolution to be enforced by legislation and the army in European fashion. What a Napoleon with his despotic power had been unable to accomplish against class distinctions in Germany, this German advocated that a republican government should undertake over against another Teutonic race for the benefit of African slaves. Legislation backed by the bayonet should obliterate race distinctions.

The president sent an even more eminent, if less voluble, observer to the South in the person of General Grant. Grant's visit was shorter, but it had the advantage of being later, lasting through parts of November and December. He reported that he was satisfied the mass of thinking men accepted the present situation of affairs in good faith. He advocated that black troops, lately slaves, be withdrawn, because they demoralized labor, both by their advice and by furnishing in their camps a resort for the freedmen for a long distance around. The freedmen seemed to be imbued with the idea that the property of their late masters should by right belong to them, or at least should have no protection from the colored soldier. Of the Freedmen's Bureau, Grant formed a less favorable opinion than Schurz. Grant thought that in some of the States its affairs had not been conducted with good judgment or economy, and that the belief of the freedmen that the lands of their former masters would be divided among them had come from the agents of the bureau. The freedman's mind did not seem to be disabused of the idea that he had a right to live without care or provision for the future.

These two reports were to play a great part in the future. That of Grant was conservative and on it the president evidently relied. That of Schurz was radical, and advocated a policy of Thorough. It could hardly have been more to the point if it had been penned by Thad. Stevens. Both came into the possession of Congress when that body reassembled in December, 1865.

CHAPTER V

SOUTHERN ATTEMPTS AT ECONOMIC RECONSTRUCTION

LOCAL self-government had been restored to the South. President Lincoln, during the war, had been striving to find in the States a loyal nucleus that could be entrusted with reorganization, and had been more or less successful, first in Tennessee, then in Louisiana and Arkansas, and at last in Virginia also. He had been forced to use a kind of fiction, but Sir Henry Maine has shown that fiction is one of the methods of advance in law. A somewhat different procedure was necessary in other Southern States, and it was left to President Johnson to inaugurate it, but beginning with North Carolina provisional governors had been appointed in all States and constitutional conventions held. Pardon had so largely increased the original nucleus that at last the electorate was fairly representative again. Slavery had been the immediate cause of the Civil War, effecting its purpose by secession and a struggle which had piled up an immense debt, and now slavery, with its means and its result, had been abolished; so that it would seem as if the war for the Union had been completely successful. Not only was the Union preserved, but the disturbing causes were removed, and the future seemed bright.

A further step had been taken by the creation of elective governments. The provisional administration had been designed as a means of organizing regular governments,

and with the installation of permanent officials and legislatures it passed away. The judicial departments also resumed their labors and the people turned their minds to works of peace. From the destruction of material resources and revolution in economic conditions, it was almost like beginning society from the foundations. Probably history furnishes no instance of such a re-beginning; but Anglo-Saxons were involved, and they went manfully to work.

The South was mainly agricultural, and an agricultural community can not only supply the means of warfare, but soon adapt itself to the return of peace and restore the loss of material waste. Even battlefields bear grain again, and nature tries to cover the scars of war. Recurring seasons bring forgetfulness of the past in the renewed activities of the present and the promise of the future.

Probably the most difficult problem before the restored States was that connected with agricultural labor. The relations of labor and capital are troublesome at all times, for besides being economic they at the same time concern persons and so are political also. Neither prejudice nor philanthropy can offer satisfactory or binding solutions. Every community is made up of employers and employés, of those who furnish capital and those who furnish labor. It is true that in some cases a person may belong to both classes, or may rise or sink from one to the other; but there is nevertheless a real distinction between the two. In the South the labor class as such had heretofore been the negroes in a state of slavery. The bad effect of this upon what were called the poor whites had been one of the defects of the system, but the productiveness of the soil and the value of cotton, rice and sugar cane, the chief products, had caused the South to become wealthy. There could be no doubt that in the solution of economic problems the negro could give no aid in the way of discussion. He was ignorant, without property, and a problem himself rather than able to aid others. Whatever was to be done, would necessarily have to be done by the white men, and must be done at once,

to meet the existing anarchy. Railroads could be built in the future, but crops could not wait.

How did the native Caucasians proceed to meet the new conditions when self-government was restored? Of these whites a majority had not been slaveholders. Many as farmers had been themselves somewhat in competition with slave labor. While the old masters were kindly disposed toward the negroes and could be relied upon to do them justice, the class known as "poor whites" were not so friendly. As a rule where the negroes were in large numbers, as in what was called the Black Belt, the seat of cotton culture, the white people were used to them and recognized that the interests of the whole community were, one and the same. On the other hand, in what were called white counties, those less fertile regions about the foot of the mountains, the whites predominated and the lower classes were disposed to crowd the negroes out. This was the action of a regular economic law, but in unsettled times succeeding great revolutions those injured by changes are apt to take such laws into their own hand. We shall see this rule acting within the limits of single States, and we shall find it acting on a greater scale as between States with varying proportions of negroes. Thus, in Kentucky the bureau agents complained that the whites were harsher than was found to be the case nearer the Gulf, and the same was true in the mountain counties of Tennessee and Alabama where there had been few slaves.

Whether the black race could ever be raised to a thorough equality with the white was the problem for the future to solve, and so far as there was any analogy to be found, whether in the West Indies or Liberia, the result was not promising. The alternative plan of creating some temporary condition in which the whites could exercise a form of tutelage or have some power of apprenticeship over the blacks was not tried except in Jamaica for a few years after emancipation. The radicalism of the time seemed to require there the practical civil equality of all races, whether all

were equally ready for the enjoyment of this equality or not. It remained to be seen whether in the Southern States, where the conditions were not so extreme as in the West Indies, a more promising result could be worked out.

Among the southern people there was not so much a conscious resort to the teaching of history or the experience of other countries as to an instinctive feeling that every change, whether political or economic, must be as gradual as possible, accompanied by an instinctive opposition to reforms imposed from without. There was no desire to adopt the French shibboleth of liberty, equality and fraternity, which had been the ruin of the white race in Hayti. Liberty was assured, for there was no appreciable desire to reënslave the negroes, whatever might be the feeling that the Federal government should in justice compensate the owners of the slaves set free as a war measure. Fraternity did not enter the mind of anyone, and the only question was as to what extent under the new circumstances there should be equality of rights. Social equality and amalgamation were frowned on, and even political equality was thought of only to be guarded against. There remained, however, for the freedmen the wide economic and civil fields,—the right to labor, own property, and pursue legal remedies for themselves.

These were not only broad fields, but to some extent new ones. Thus, so far as property was concerned, the slave had no legal rights, for his labor belonged to his master, and what property he had in possession was not his in a strict legal sense of the word. At the same time, in many instances, he practically did control his labor and own its fruit, and often bought his freedom with it. So that the idea was not entirely novel either to him or to his master, and it would seem as if evolution might be possible here without any cataclysmic change in current conditions. The belief had grown up among the whites that as a whole the negro possessed few virtues except docility and the ability to work, and even this latter was qualified by the conviction that he would work steadily only under physical compulsion.

Common experience showed that the average negro would not hesitate to lie and steal. To some extent these tendencies might be due to the slavery under which he had been brought up, but there could be no question that ultimately they were inherited from his African ancestors. Deceit in all its forms is the natural recourse of the weaker class, whether human or otherwise. Even if much of this was due to slavery, the abolition of slavery was not the abolition of the qualities which were ingrained, if not native, and there might be serious question how far the negro was fitted for the discharge of civil duties; for these are built first and foremost upon the honesty of the members of the community. It was this feeling, perhaps, accompanied by dislike to equality on the witness stand, rather than hostility to the race, which led to the struggle on the subject of giving the negro the right to testify in court. In some instances this matter had been settled by the conventions; in others, it had been remitted to the legislatures, to be settled by the new governments.

Schurz's summary of the situation was that: "If nothing were necessary but to restore the machinery of the government in the States lately in rebellion in point of form, the movements made to that end by the people of the South might be considered satisfactory. But if it required that the southern people should also accommodate themselves to the results of the war in point of spirit, those movements fall far short of what must be insisted upon.

"The loyalty of the masses and of most of the leaders of the southern people, consists in submission to necessity. There is, except in individual instances, an entire absence of that national spirit which forms the basis of true loyalty and patriotism.

"The emancipation of the slaves is submitted to only in so far as chattel slavery in the old form could not be kept up. But although the freedman is no longer considered the property of the individual master, he is considered the slave of society, and all independent State legislation will share the tendency to make him such. The ordinances

abolishing slavery passed by the conventions under the pressure of circumstances, will not be looked upon as barring the establishment of a new form of servitude."

The northern idea, represented by Schurz, was that the negro needed only freedom and education to make him equal to the whites and that it was really the southerner who needed to be reconstructed in order to cope with the new conditions.

It is true that if civil equality was desirable, it could only come by evolution, a result to be looked forward to in the future, and it would be an untrue picture which would represent the South as wholly made up of saints or even of gentlemen. It had its full share of lawless men even in its palmy days, and surely it would be a false policy which was based on the idea that there were no such men in a great country prostrated and embittered by the results of civil war. There was, besides, another element which is too little taken into account. The nature of southern civilization was different from that of the North. It was rural rather than urban, as in New England; based upon the subjection of a large and ignorant servile race to an upper class rather than upon an educated middle class. Its ideals had always been military rather than peaceful and this from the very nature of the case. Thus, a duel or other use of force was not looked upon in the same light as at the North, and what were called "personal difficulties" were only too common, deplored as their results often were. There were some elements of frontier life and border lawlessness in the make-up of southern civilization. This could not be readily understood at a distance, where only the polished manners and writings of the leading Southerners penetrated, and might lead to an entire misconception of the meaning of what elsewhere would be called violence. If the enfranchised negroes also had to encounter the conditions of what Sumner was pleased to call Rebel Barbarism, they were conditions to which they were used from birth. Even less than their masters did they know or imagine anything better.

It might be that under the influence of the Freedmen's Bureau and otherwise some of the freedmen were settling down to work, but it was equally true that very many were not and were wandering over the whole country, living from hand to mouth and causing fear, especially in the agricultural districts. Moreover in some quarters the influence of the bureau was bad. There was absolutely no telling what would be the outcome, and men who had for generations been dealing with the negroes as slaves assumed that although the personal bond of slavery had been dissolved coercive measures were still necessary in the beginning, that not only could there be no race equality but the negroes should be trained and controlled by the whites. Almost universally the new legislatures devoted their attention to this subject as perhaps the first and most pressing before them.

The first State to legislate upon the subject of the freedmen was Mississippi. Its earliest law regulated the relation of master and apprentice and was approved November 22, 1865; two days later came the even more noted act to amend the vagrant laws of the State; and the next day one to confer civil rights on freedmen. These deserve a somewhat detailed consideration.

The act as to master and apprentice made it the duty of civil officers to report to the Probate Courts semi-annually all freedmen, free negroes and mulattoes under eighteen who were orphans or whose parents did not support them, whereupon it was the duty of the court to apprentice the minors, having a particular care for their interest and giving preference to the former owner, when a suitable person. The master or mistress must give bond and security payable to the State of Mississippi "conditioned that he or she shall furnish said minor with sufficient food and clothing; to treat said minor humanely; furnish medical attention in case of sickness; teach, or cause to be taught, him or her to read and write, if under fifteen years old, and will conform to any law that may be hereafter

passed for the regulation of the duties and relation of master and apprentice," the term to be until eighteen or twenty-one, according to sex. There was given the power of moderate corporal chastisement such as a father or guardian was allowed to inflict at common law, but in no case was cruel or inhuman punishment allowed. If an apprentice ran away, the master might recapture him and bring him before a justice, who should remand him to service, but in case of refusal to return, the apprentice could appeal on giving bond, or was committed to jail, and the court at the next term was to investigate the matter. If the apprentice left without good cause, punishment followed for desertion, but otherwise the apprentice was discharged and the master paid damages, not exceeding one hundred dollars. It was misdemeanor to entice away apprentices. A freedman having a minor child could apprentice him, and wherever age was of importance and could not be ascertained by record testimony, the judge of the county court should fix it.

The next Mississippi act, in the first two and the fourth sections, defined and punished vagrants in terms which so far as they discriminated were severer as to the whites.

"All rogues and vagabonds, idle and dissipated persons, beggars, jugglers, or persons practising unlawful games or plays, runaways, common drunkards, common night-walkers, pilferers, lewd, wanton, or lascivious persons, in speech or behavior, common railers and brawlers, persons who neglect their calling or employment, mispend what they earn, or do not provide for the support of themselves or their families, or dependents, and all other idle and disorderly persons, including all who neglect all lawful business, habitually mispend their time by frequenting houses of ill-fame, gaming-houses, or tippling shops, shall be deemed and considered vagrants, under the provisions of this act, and upon conviction thereof shall be fined not exceeding one hundred dollars, with all accruing costs, and be imprisoned, at the discretion of the court, not exceeding ten days."

"All freedmen, freed negroes and mulattoes in this State, over the age of eighteen years, found on the second Monday in January, 1866, or thereafter, with no lawful employment or business, or found unlawfully assembling themselves together, either in the day or night time, and all white persons assembling themselves . . . or usually associating with freedmen, free negroes or mulattoes, on terms of equality, or living in adultery or fornication with a freed woman, freed negro or mulatto, shall be deemed vagrants, and on conviction thereof shall be fined in a sum not exceeding, in the case of a freedman, free negro or mulatto, fifty dollars, and a white man two hundred dollars, and imprisonment at the discretion of the court, the free negro not exceeding ten days, and the white man not exceeding six months."

"Keepers of gaming-houses, houses of prostitution, prostitutes, public or private, and all persons who derive their chief support in the employments that militate against good morals, or against law, shall be deemed and held to be vagrants."

Justices, mayors and aldermen had jurisdiction of vagrancy, and it was the duty of sheriffs, constables, marshals and like officers to report violation of the act. Proceeds of penalties were paid into the county treasury, and, if a fine were not paid by the freedman, he must be hired out to earn it, with preference to the employer. The same duty and liability attached to freedmen as to white people in regard to support of families, and all freedmen between the ages of eighteen and sixty years must pay a poll or capitation tax of one dollar annually, which went to the county treasury as a freedmen's pauper fund, and a freedman not paying this tax was *prima facie* a pauper, to be hired out to any one who would pay it and costs, with preference to the employer. The right of appeal was allowed upon giving bond and security for not less than twenty-five dollars.

The act as to civil rights provided "That all freedmen, free negroes and mulattoes may sue and be sued, implead and

be impleaded, in all the courts of law and equity of this State, and may acquire personal property, and choses in action, by descent or purchase, and may dispose of the same in the same manner and to the same extent that white persons may: Provided, That the provisions of this section shall not be so construed as to allow any freedman, free negro or mulatto to rent or lease any lands or tenements except in incorporated cities or towns, in which places the corporate authorities shall control the same." Cohabiting previous to the act was to be considered as marriage. Intermarriage between freedmen, free negroes and mulattoes was allowed under the same regulations as among the whites, but separate records were to be kept, and the marriage of whites with blacks was prohibited as a felony. All were to be deemed freedmen, free negroes or mulattoes who were either of pure negro blood or descended from a negro to the third generation inclusive, even though one ancestor in each generation may have been a white person. It was further provided that freedmen, free negroes or mulattoes should be competent witnesses in civil cases, when a party to the suit was colored, and also in all criminal prosecutions where the crime charged was alleged to have been committed by a white person upon or against the person or property of a freedman, free negro or mulatto.

Every freedman was required on the second Monday of January, 1866, and annually thereafter to have a lawful home or employment, with written evidence, such as license from the mayor in a town, or member of the police board in a country beat, or must show a written contract. Contracts made with freedmen for longer than a month were to be in writing in duplicate, attested and read to the freedmen by an official or two white private citizens. Fees were provided for the arrest of freedmen who had quit service without good cause, and the employer might make affidavit as to such desertion, which should be followed by warrant of arrest. Enticing a freedman to desert legal employment, or giving such deserter aid, was a misdemeanor. A freedman

was given the right to charge any person, white or colored, with a criminal offense, and upon affidavit process should issue, and all penal laws of the State were to apply to freedmen, free negroes and mulattoes.

The legislation of South Carolina as to the freedmen was probably the most systematic and extensive of all the States, and this not only because South Carolina was thorough in whatever it undertook, but because the freedmen exceeded the whites in number and the subject was therefore of prime importance.

Its act to establish and regulate the domestic relations of persons of color and to amend the law in relation to paupers and vagrancy, approved December 21, 1865, covered such subjects as husband and wife, master and apprentice, contracts for service, regulations of labor on farms, rights of master as between himself and servant, causes of discharge of servants, rights of masters as to third persons, rights of servant as between himself and master, rights of master and servant, rights of servant as to third persons, house servants and others not in husbandry, mechanics, artisans, and shopkeepers, eviction of persons of color, paupers, and vagrancy and idleness, with form of contract,—a comprehensive catalogue. Thus, the relations of husband and wife and parent and child amongst persons of color were established. Couples then living as husband and wife were declared to be such, and, in case of one having two or more reputed consorts, he or she should by the first of April succeeding select the legal mate, after which a ceremony of marriage should be duly solemnized by any clergyman, district judge, magistrate or any judicial officer. Paupers; however, could not contract marriage, and any marriage between a white person and one of color was illegal. Neither husband nor wife could abandon or turn away the other under penalty of prosecution for misdemeanor. A father should support his children under fifteen, without regard to their maternity, and infirm persons should be supported by their descendants, brothers or sisters.

The principal feature of the act was the extending of the relation of guardian and ward to persons of color and establishing that of master and apprentice. Any child over ten years of age, born of a colored parent, might be bound by the father or mother to respectable white or colored persons, and colored children without parents or with parents of bad character might be apprenticed by a district judge or other magistrate until the child reached eighteen or twenty-one years of age, according to sex. All such contracts were to be in writing, in duplicate, one copy retained by the master and the other filed with the clerk of the district court, and the required fees went to the fund for supporting paupers. A master was bound to teach the apprentice husbandry or some other useful trade, furnish wholesome food and useful clothing, teach habits of honesty, industry and morality, govern and treat him humanely and send him to school at least six weeks in every year after his attaining the age of ten years, provided there was a colored school within convenient distance and the teacher held a license from a district judge. The master had authority to inflict moderate chastisement, impose reasonable restraint, and recapture the apprentice if he deserted. The relation could be dissolved by the district judge on the consent of both parties or where it appeared seriously detrimental to either, for either could complain to the magistrate, who should investigate and make the appropriate order. Wherever the apprentice was subjected to immoderate correction or unlawful restraint, the master was liable to indictment, fine and imprisonment, not to exceed fifty dollars and thirty days, besides an action for damages. Contracts of a month or more must be in writing, attested by one white witness and approved by the judge of the district court or by a magistrate. If not expressed, the term of service was until the succeeding 25th day of December, and wages, if not stipulated, must be fixed by the district judge or magistrate on application of either party. At the expiration of the term, the master should pay the apprentice not exceeding sixty dollars.

"On farms or in outdoor service, the hours of labor, except on Sunday, shall be from sunrise to sunset, with a reasonable interval for breakfast and dinner. Servants shall rise at the dawn in the morning, feed, water and care for the animals on the farm, do the usual and needful work about the premises, prepare their meals for the day, if required by the master, and begin the farm work or other work by sunrise. The servant shall be careful of all the animals and property of his master, and especially of the animals and implements used by him; shall protect the same from injury by other persons, and shall be answerable for all property lost, destroyed or injured by his negligence, dishonesty or bad faith.

"All lost time, not caused by the act of the master, and all losses occasioned by neglect of the duties hereinbefore described, may be deducted from the wages of the servant, and food, nursing and other necessities for the servant, whilst he is absent from work on account of sickness or other cause, may also be deducted from his wages. Servants shall be quiet and orderly in their quarters, at their work, and on the premises; shall extinguish their lights and fires, and retire to rest at seasonable hours. Work at night, and outdoor work in inclement weather, shall not be exacted, unless in case of necessity. Servants shall not be kept at home on Sunday, unless to take care of the premises, or animals thereupon, or for work of daily necessity, or on unusual occasions; and in such cases, only so many shall be kept at home as are necessary for these purposes. Sunday work shall be done by the servants in turn, except in cases of sickness or other disability, when it may be assigned to them out of their regular turn. Absentees on Sunday shall return to their home by sunset.

"The master may give to his servant a task at work about the business of the farm which shall be reasonable. If the servant complain of the task, the district judge, or a magistrate, shall have power to reduce or increase it. Failure to do a task shall be deemed evidence of indolence,

but a single failure shall not be conclusive. When the servant has entered into a contract, he may be required to rate himself as a full hand, three-fourths, or one-fourth hand, and according to this rate, inserted in the contract, shall be the task, and of course the wages.

"Visitors or other persons shall not be invited or allowed by the servant to come or remain upon the premises of the master without his express permission. Servants shall not be absent from the premises without the permission of the master."

The servant must take all lawful orders of the master, be honest, truthful, sober, civil and diligent, and those under eighteen years of age were subject to moderate correction. The master might discharge the servant for wilful disobedience, habitual negligence or indolence, drunkenness, gross moral or legal misconduct, want of respect and civility, prolonged absence or absence on two or more occasions without permission; or instead of discharging the servant, the master might in such case complain to the district judge or magistrate, who might direct suitable corporal punishment or a pecuniary fine, and remand him to work.

On the other hand, the master had the right to defend a servant, and it was his duty to protect him from violence and render him aid and assistance in obtaining redress for injury to his rights of person or property. The master was, however, not required to furnish medicine or medical assistance without express engagements,—a change from slavery regulations. The master wilfully misrepresenting the character of a servant was liable to an action for damages, and upon the conviction of a master for felony, the district judge might annul his contract with the colored servants. Servants could leave the master's service for an insufficient supply of wholesome food, unauthorized battery, failure to pay wages, and the like, and whenever a master discharged a servant or the servant left the master, complaint might be made and the matter investigated by the district judge or magistrate. The servant was not to be liable civilly

or criminally for any acts done by the command of the master.

The stipulations above were amongst others considered as embraced within the contract of service, although not expressed, and a simple form was prescribed.

Persons of color had to obtain an annual license from the judge of the district court before practising as an artisan, mechanic, shopkeeper or any other trade besides that of husbandry or servant under contract, to be issued upon examination as to skill and good character, and the payment to the clerk of the district court of ten dollars for any business except shopkeeper or peddler; for these, one hundred dollars was the amount fixed, which must have been intended to be prohibitory.

Assistance was afforded infirm colored people. Thus the landowner was forbidden to evict from houses on plantations before January 1, 1867, those who were helpless from infancy, old age, disease or other cause, and this was in the nature of a covenant running with the land, binding on the grantee. Colored people were required to contribute monthly for the support of their pauper relatives, the amount to be fixed by the district judge or one of the magistrates, and collected by summary process. A district court fund was established, composed of aids paid for the approval of contracts, apprenticeships, of licenses, fines and forfeitures, wages of convicts and certain taxes, amongst which may be mentioned one dollar on each male person of color between the age of eighteen and fifty years, and fifty cents on each unmarried female between eighteen and forty-five.

Vagrancy and idleness were declared public grievances, punished as crimes upon complaint to the district judge or magistrate. Vagrants were defined as follows:

"All persons who have not some fixed and known place of abode, and some lawful and reputable employment; those who have not some visible and known means of a fair, honest and reputable livelihood; all common prostitutes; those who were found wandering from place to place, vending,

bartering or peddling any articles or commodities, without a license from a district judge, or other proper authorities; all common gamblers, persons who lead idle or disorderly lives, or keep or frequent disorderly or disreputable houses or places; those who, not having sufficient means of support, are able to work and do not work; those who (whether or not they own lands, or are lessees or mechanics), do not provide a reasonable and proper maintenance for themselves and families; those who are engaged in representing, publicly or privately, for fee or reward, without license, any tragedy, interlude, comedy, farce, play or other similar entertainment, exhibition of the circus, sleight-of-hand, wax works, and the like; those who, for private gain, without license, give any concert or musical entertainment of any description; fortune-tellers, sturdy beggars, common drunkards; those who hunt game of any description, or fish on the land of others, or frequent the premises, contrary to the will of occupants, shall be deemed vagrants, and be liable to imprisonment or hard labor, one or both, to be fixed by the verdict, and not to exceed twelve months."

Probably the principal industry of Virginia was tobacco culture, which required the presence of many negroes, and indeed had caused the introduction of slavery into America. The ravages of war had caused perhaps greater disorganization of the labor system in Virginia than anywhere in the South, and it was to be expected therefore that attempts would be made there to readjust economic relations as quickly as possible. The legislation of 1865-6 was necessarily provisional, but something had to be attempted at once. Thus the first section of the Vagrant Act related to the arrest, trial and punishment of vagrants, directing that those convicted should be hired out and the wages applied for the use of the offender or his family. Then follows the provision that "if any such vagrant or vagrants shall, during such time of service, without sufficient cause, run away from the person so employing him or them, he or they shall be apprehended, on the warrant of a justice, and returned

to the custody of such hirer, who shall have, free of any further hire, the services of said vagrant for one month in addition to the original term of hiring; and said employer shall have the power, if authorized by the justice, to work said vagrant confined with ball and chain." The second section gave a definition of vagrancy and divided vagrants into five classes, one of which embraced "all persons who, not having wherewith to maintain themselves and their families, live idly and without employment, and refuse to work for the usual and common wages given to the laborers in the like work in the place where they then are."

This was not greatly different from the laws of the other Southern States on the subject, and follows very nearly the provisions in Connecticut and other Northern States as to vagrants and apprentices who are of the same blood as the upper classes. There is no question that in the South such legislation affected the negro race more than the white, but this was only because the circumstances of the time made more negro vagrants than white vagrants. The wording of the law applied equally to both races. On account of the difference in result, however, General Terry, on January 24, 1866, issued a famous order prohibiting the enforcement of the act as to freedmen, on the ground that combinations had been made or might be made to depress wages and so under the penalties of this law freedmen would be forced to work for less than a living rate, "which will reduce them to a condition which will be slavery in all but name." The law and the proclamation had great effect at the North, where the legislation was supposed to subject to punishment of ball and chain all who had made a contract, instead of only those who had been convicted of vagrancy and had run away from their employers.

The action of North Carolina deserves special attention because that State had contained so large a Union element, which was friendly to the negroes, and because of the activity of the negroes themselves. A committee appointed to prepare laws relating to freedmen justly said that the great and

radical changes caused by emancipation could not be eliminated at once, and the committee therefore confined themselves to proposing new laws only so far as the way appeared clear, leaving the rest to be taken care of by the flexible common law. Whipping and involuntary hiring out of persons of color were not proposed except where the same punishment applied to white persons, for the effect was to make one utterly degraded both in the public esteem and in that of the culprit himself. The committee admitted that it might be said with perfect truth that there were comparatively few of the slaves lately freed who were honest, although they did not undertake to say whether this was an original sin or due to slavery, except to note that the mixed bloods had not been elevated. Hiring out they declared to be a comparatively modern punishment.

They recommended that negro evidence be allowed in civil cases only where persons of color were affected, whether as to rights of property or person. The present helpless and unprotected condition of the race demanded this much consideration, because there had now ceased the old interest of the masters to protect the slaves, "without reckoning the feelings of humanity which have generally characterized the slaveholders of this State." The law therefore ought to step in and give to the negro the protection formerly afforded by the master, and "it is established by experience that breaches of the peace decline in proportion to the facility with which the violator is brought to justice." The admission of negro evidence was necessary to secure the colored people in their rights of property. "Already the wicked white and corrupt dependent negro have banded together in lawless thefts and fraud on industrious and peaceful citizens, both white and black." The only objection to such evidence was that negro testimony was not reliable and if universally believed would produce far more wrong than right, but while the committee was "fully aware of a lamentable prevalence of this vice among the race," they thought it a natural offspring of their recent slavery and degradation, for "the vice

of lying is and ever has been common to all people in slavery." Universal and unvarying truth is the highest and purest of all virtues.

Emancipation had added upwards of three hundred thousand freedmen to the population, about one-third that of the entire State, and "if it ever was, it is certainly not now our policy to degrade them. . . . They must be educated out of their ignorance and reformed out of their vicious habits." There were not then, nor had there been even during the war, any decided marks of prejudice on the part of the blacks against their late masters. Such admission of testimony was urged as analogous to the laws of all civilized Europe, for no one on that continent was excluded by reason of character, color or religion. Indeed, every semi-barbarian was admitted to testify in North Carolina except the negro, and there was no ground now for keeping him out. Thousands in the State were in full fellowship with Christians, and, although there was a general demoralization among them as a class, there should be no dread of the consequences of admitting their evidence, for hundreds throughout their lives had conducted themselves in a manner altogether becoming the best citizens and deserving of the very highest praise. "These are lights indeed to all others; and the consideration of the respect in which they are held ought to stimulate and encourage others of their race to practise the virtues of honesty and truth." Laws following these principles, therefore, were duly enacted in North Carolina.

Perhaps the best way to understand the feelings and aspirations of the southern people in general would be to examine the body of legislation in some State at this time. Take, for example, the acts of the General Assembly of Alabama at the session from the third Monday in November, 1865, to February 23, 1866. The first of these five hundred and one acts is one of thirty-four pages, entitled "An act to establish revenue laws of the State of Alabama," prescribing the principles and machinery of assessing and collecting

taxes; the last one, a private law authorizing guardians of certain minors to lease and repair their real estate. Between the two are statutes touching in one way or another almost all the interests of the people, the majority being, as usual, private acts. Many railroad companies were incorporated, and not a few of the roads were built and under one name or another constitute links in the present railroad system of the country. Banks and insurance companies were chartered, and of these several, especially at Mobile, entered upon a long and useful life. Manufacturing incorporations abound, and not a few for mining and navigation, whether of the rivers or seas, besides some for turnpikes also, and many acts prohibited the sale of liquor within certain distances of churches and other public places. A number of towns were chartered and some municipalities were changed from towns to cities. Thus the whole charter of Mobile was redrawn, although the changes were mainly by way of codifying a number of previous acts. The section conferring powers upon the aldermen and common council mentions amongst other subjects for legislation that of vagrants and all such as have no visible means of support, including beggars, and required that they should give security for good behavior, and in case of inability to pay they might be put to labor. This attracted some attention at the North, but had been in the charter long before and has continued in the charter ever since.

The subject of the freedmen was of course touched in the Alabama legislation and among the earliest acts was one "to protect freedmen in their rights of person and property in this State." This was approved December 9, 1865, and gave the right of suit to the same extent as white persons, provided for negro evidence in cases where negroes were concerned and also in civil and criminal cases of injuries to the person or property of negroes.

On December 15th was passed an act "concerning vagrants and vagrancy," providing that the commissioners' court of any county should supply buildings for a poorhouse

or house of correction, appoint officers and make necessary regulations. The punishments should not exceed hard labor, chain gangs, stocks if necessary to prevent escapes, "such reasonable correction as a parent may inflict upon a stubborn, refractory child," solitary confinement not exceeding one week, and the hiring out of vagrants for the term of their sentence. Among vagrants was "a stubborn or refractory servant, a laborer or servant who loiters away his time or refuses to comply with any contract without just cause." A vagrant was sent to the house of correction after trial by a justice of the peace, or the justice might hire him out for a period not longer than six months, the proceeds of all hiring and fines to go for the benefit of the poor-house, or vagrants might be sentenced by a justice to labor on public works or highways for not more than forty days.

On February 23, 1866, there was passed an act "to define the relative duties of master and apprentice," which like the vagrant law ran against all without any discrimination as to race. Parents could apprentice their children, and it was made the duty of officers to report to the probate courts all minors under eighteen who were orphans without visible means of support or whose parents refused to support them, and in such case the court must apprentice the minor to some suitable and competent person, having particular regard to the interest of the minor, with a proviso that if the minor were the child of a freedman the former owner should have the preference when proof was made that he was a suitable person. The other provisions were much the same as in Mississippi.

It is unnecessary to take up the laws of each State, for they were upon almost the same model. The States with the larger negro population had laws like Mississippi and South Carolina; those more evenly divided had laws like Alabama.

The foundation assumption of all so far as concerns the freedmen was the superiority of the white race and the need of special provisions for the blacks. The Freedmen's

Bureau law was based upon this special need, as was the Civil Rights Act, which was passed April 9, 1866, and thus subsequently to the southern legislation on the subject. A lawgiver from Mars might have supposed an assimilation of the two races was the proper course, adopting the idea of the writer in the *Atlantic Monthly* that the result of the war was to reduce all people to one undistinguishable mass, who should emerge with common rights and duties. Possibly the legislator from Mars was to visit Washington, but at all events the Southern white people assumed that the amendment of a parchment constitution did not change the skin or the characteristics of the Ethiopian, and that at least for the present he must be held in a condition of quasi-tutelage. Accordingly this principle worked itself out in three directions. In the first place, the white blood must be kept pure, and stringent legislation prevailed over all the South against intermarriage of the races. It may be also that the legal separation of the races would for the future have an indirect but still powerful effect in preventing or reducing illegal intermingling of blood. In the second place, one object of the legislation was police supervision of the freedmen, recognizing that whatever the intentions of the Freedmen's Bureau, emancipation of the negroes from the overseer was apt to render them idle and this in turn make them needy and vicious; so that it was for the interest of the State, as well as for themselves, that they should be kept at work rather than enjoy for the present the freedman's privilege of being idle if he wished. Such was the theory of what are called the Vagrant Laws. In the third place, the supervision as to the young members of the black race was to be effected by means of the guardianship regulations. In effect therefore the general basis was that the white race was to supervise the black, but by methods radically differing from slavery in that it was to be carried out by contracts, and under the supervision of courts. In details the regulations did not differ greatly from those of General Banks and the Freedmen's Bureau itself.

These things were not done in a corner. It was not unknown that there was more than one "chiel amang ye, takin notes,—And faith he'll prent it." Some of these observers were friendly, like Truman, whom President Johnson sent out on a tour of observation, and as honest but far more doctrinaire and critical was the president's other emissary, Carl Schurz, with whom we have already become acquainted. Later came, amongst others, the Englishman Henry Latham, of Cambridge, whose *Black and White* was a faithful and sympathetic picture of what he saw, and the fuller investigations of Robert Somers in his *Southern States Since the War* (1871) are invaluable on the social and industrial conditions. The reports of the army officers and bureau officials and of the regiment of newspaper correspondents were published and well known. The lawmakers, therefore, were not legislating in the dark, nor had they any desire to keep their proceedings dark. Thus, in Alabama the law required that ten thousand copies of the statutes relating to the freedmen should be printed, so as to give the greatest publicity to the new state of things. All that was done, was done in the full light of day and with an intent and hope to establish relations which would be of benefit to both the races who were entering upon a new life in the old South.

The more radical regulation, as for instance that of Mississippi, did not pass without challenge. In that State not a few good citizens thought that not only was the legislation unnecessarily severe, but that it would be misunderstood outside the State, as it quickly was. It was printed verbatim throughout the North, and the *Chicago Tribune* declared: "We will tell the white men of Mississippi that the men of the North will convert the State of Mississippi into a frog pond before they will allow any such laws to disgrace one foot of soil in which the bones of our soldiers sleep and over which the flag of freedom waves." Nearer home the *Jackson Clarion* declared the legislation in many respects unfortunate, and Judge Campbell, an eminent Mississippian, said that

some of it was foolish. Thus, the result of the provision forbidding the renting of land in the country was that it drove the freedmen to the towns, and helped the tendency which all wished to avoid.

Not only to Schurz but to the North generally the basic principle of Southern legislation, the control of the black race by the white, was wrong and but a restoration of slavery in another form. There might be the rub. To the southern mind transition to economic freedom must be made gradually. To the Northerners there must be a new departure, with both white and black upon an equality. At the same time the experiment now being made at the South was hopeful in that it was spontaneous, in one sense a legislation from within. It might well be that there were mistakes in detail, but if so they could be remedied along two lines. In the first place the criticism which had been made in the South itself would be intensified if it was found to be just, and improvement could be effected by amendment of the law. And then again the Freedmen's Bureau, backed by the military, started out with the determination to enforce the equality of the two races and had the power to effect this by removing all cases concerning freedmen out of the State courts. The result of this would be that the State courts would have to conform to the new Federal principles or they would lose a large part of their jurisdiction. In point of fact the Black Codes were in several instances repealed by the southern States. That of South Carolina was regarded as the most severe, and not only was it abrogated in the fall and winter of 1866, but because of the disapproval of the military authorities had never been put in force. Amendments abolished discrimination between the races. Along these two lines, therefore, by amendment or by an equalizing administration, whatever was wrong could in course of time be eliminated. Human nature being what it is, interference from without would surely be a disturbing factor, alienating and angering both races. If this could be avoided it might well be that America would, as

she had done several times in the past, furnish a new example to history and strike out a new path of progress.

With at least a temporary solution of the urgent labor and police problems, the way was open for the South to consider future development. True, no law, no regrets could bring back those lives which had been sacrificed, three hundred thousand men, mainly of the age in which men are most active and useful, besides a much larger number bearing wounds which more or less incapacitated them for the struggle of life. And yet by white immigration something might be accomplished toward repairing even this waste. So far as people would come from Europe, a better class of laborers might result; from the North, an active, perhaps more progressive class of citizens.

This had not escaped the observant eye of Carl Schurz. While deprecating the deportation of the negro, except partially, as to aid in building the Pacific Railroad, he advocated wholesale immigration; "for one of the greatest drawbacks under which the southern people were laboring was that for fifty years they had been in no sympathetic communion with the progressive ideas of the times." Slavery had built a wall, producing, as in China, a belief that the South had the highest civilization, a model for other nations the world over. "The people were so wrapped up in self-admiration as to be inaccessible to the voice even of the best intentioned criticism." Immigration would break up this delusion and introduce new economical benefits.

As to replacing the material waste, the South had only to look at the North to find a remedy. Transportation even before the war had been developing there, for a large number of canals had been dug, followed by an increasing network of railroads, and even during the civil struggle a transcontinental line had been projected and partially built. These had been principal instruments in unifying the North, and the railroad to the Pacific would have the same result in unifying the country as a whole. Here, then, was the promise of solution for the South also. With simplified and

cheapened intercommunication, natural resources could be developed, population and industries diversified, and manufacturing, particularly of cotton, would flourish.

Roads and canals were favorite American projects from an early day and canals especially in the twenties. The Chesapeake and Ohio through Maryland and Virginia was one of the early enterprises, assisted both by the State and the general governments, and almost contemporaneously the same plan was projected in the West and the South. The act of Congress of March 30, 1822, was an instance of the first stage of this development, for the State of Illinois was thereby authorized to construct a canal through public lands to connect the Illinois River with the lower extremity of Lake Michigan at Chicago. Five years later public lands were donated to the State for use in this construction, consisting of alternate sections for five miles on each side of the canal. Meantime Ohio and Indiana had been granted similar aid for the construction of canals, and four hundred thousand acres had been appropriated in 1828 to the State of Alabama for the improvement of the navigation of the Tennessee River at Muscle Shoals. The new invention of railroads now attracted attention and there seemed no reason in principle why the same assistance should not be extended to them, and thus in 1833 Illinois was authorized to change the canal project into a railway if it saw fit.

The West was somewhat like the South in having great areas needing development and small capital with which to accomplish it, so that it was not inappropriate that Stephen A. Douglas should, in 1850, carry further the application of aid by the Federal government. Southern statesmen were opposed to this on States rights principles, but Douglas visited the South, and, by combining the Mobile and Ohio Railroad project of Alabama and Mississippi with the Illinois Central Railroad of his own State, managed to have passed the act of Congress of September 20, 1850, which granted to the States interested alternate sections of public

lands six miles on each side of the proposed railroads, to be used in the advancement and construction of these enterprises. Alabama, for example, promptly accepted the donation and granted over to the Mobile and Ohio the lands thus coming to her, and this interpretation of the grant was approved by Congress in 1859.

Transportation facilities at the South could not compare with those at the North. The Civil War had proved this, although the Confederates showed great ingenuity in the use of the means at their command. Southern railroads had not developed into interstate systems, but were confined to lines between neighboring cities, and remained largely adjuncts to water transportation.

The charters, rights of way and land grants were after the war all that were left of many if not most of the southern railways and the great question was how to utilize these to secure the needed capital for restoration and enlargement of the roads. The plan of State aid seemed the most promising at the South, although perhaps outgrown in the North, and legislation to this end began in various States. On this as on other subjects throughout the entire South the people entered honestly and earnestly, intent upon conforming their laws to the new conditions, for they realized that they must work out their own salvation with fear and trembling.

On the whole, therefore, the future was promising, because the people were hopeful. The revolution marked by force had given way to peaceful economic evolution, and whatever mistakes had been committed could be left to be remedied by experience, the best teacher. Not only had the Thirteenth Amendment, abolishing slavery, been adopted, but now a long step forward toward peaceful development had been fairly taken.

CHAPTER VI

THE RECONSTRUCTION LEGISLATION

WHEN the Thirty-ninth Congress met on December 4, 1865, Speaker Schuyler Colfax could say that although the last Congress concluded with a "storm-cloud hovering over us, after nine months' absence Congress resumes its legislative authority in these council halls rejoicing that from shore to shore in our land there is peace." A storm-cloud of a different nature but hardly less portentous was not long in coming up. The policy of Lincoln and Johnson had never been satisfactory to Congress. We remember the reconstruction act of 1864 which Lincoln pocketed and the Wade-Davis manifesto in reply to his proclamation. The electors had sustained the president, but now there was a different president and circumstances might bring a different result. The legislative branch had been dwarfed during hostilities and Congress was not disposed to submit further to being thrust into the background. If during the war the executive became practically the whole government, the other branches merely registering its decrees, the return of peace was to present a different picture, the more particularly as Johnson did not enjoy the prestige of Lincoln. There was a chance for a reaction, and, if the congressional leaders could control it, the reaction would be toward government by the legislature. This movement might become as great as had been the previous tendency toward executive supremacy.

President Lincoln, as we remember, had attempted during the Civil War to reorganize such of the States as came under Federal military control, by recognizing a loyal electorate, that is, one that should take the oath of allegiance to the United States and declare the abolition of slavery, but otherwise conform to the laws in force at the time of secession. Lincoln's theory was that the general government had no power to interfere with the civil government of a State except possibly to remove conditions caused by the existence of war. The "Lincoln States" were much criticised as being the offspring of military rule, and were no doubt subject to criticism in this respect. But this was a necessity of the situation.

President Johnson pursued the same plan except that on the one side he did not think it necessary to act by a one-tenth vote after the whole South had surrendered, and on the other he excluded a larger number of classes from the franchise. The principle, however, was the same under both presidents, that is, that the general government could not prescribe constitutions for the States even after people of those States had been in insurrection. The State was considered as an existing entity apart from its people; they might be insurgents, but the State had never gone out of the Union. The disloyalty of most of its people might put the State out of its proper relation to the Union, but the State still existed in the persons of its loyal citizens. The necessities of war made more changes necessary than remained on the return of peace and so the word restoration would be more appropriate to Johnson's plan, just as reorganization would be to that of Lincoln. The phraseology indicated only a question of degree.

On the last day of Lincoln's life, at a Cabinet meeting, Stanton proposed a military government to embrace Virginia and North Carolina until elections could be held to frame proper constitutions. The secretary's object was to preclude the necessity of using the old legislatures, a plan which the president was supposed to have in mind.

Objection was made to combining two States, and the president directed the secretary to divide the project in this regard, and as to Virginia to recognize the Pierpoint government.

The Sunday after Lincoln's death Stanton held a conference with Senators Sumner and Dawes and the Speaker of the House, Colfax, who made certain changes in the plan, and on the same day was held the first Cabinet meeting under Johnson. Stanton said copies had not been made of the divided project ordered and the subject was therefore laid over. Before the matter was taken up again some of the Southern governors had endeavored to call their legislatures together, and it was at Stanton's command that the generals in the different districts dispersed the governors and legislatures.

Stanton at Johnson's request sent copies of his plan to members of the Cabinet and on May 8th the scheme for Virginia was taken up, recognizing Pierpoint only to the extent of requesting that governor to take measures for the reestablishment of a State government and the election of officers. The Cabinet changed the form into an executive order of nine sections, as finally issued, fully recognizing the Pierpoint government as that of Virginia.

As to Arkansas, Louisiana and Tennessee, no great variation from this plan was required, but when on May 9th North Carolina was taken up, there was presented the case of a State which had no loyal government of any kind to be recognized. It was therefore even more carefully considered. Stanton's plan called for the appointment of a military governor to maintain order and hold elections for a constitutional convention, but otherwise followed the Virginia precedent, including the enforcement of Federal laws by the different departments, and went on to provide that "loyal citizens of the United States residing within the State of North Carolina . . . may elect members of the State convention."

On consideration "provisional" was substituted for "military" governor, and on reaching the clause as to loyal

citizens, Welles, secretary of the navy, asked its meaning. Then came the admission by Stanton that it was intended to embrace whites and blacks, but he did not admit, what was known to Welles, that the clause was inserted at the conference with Sumner, Dawes and Colfax on the day after Lincoln's death. On a vote taken, Stanton, Attorney General Speed, and Postmaster General Dennison voted in favor of negro suffrage. Opposed to this, because the Federal government had no power to prescribe an electorate, were Secretaries McCulloch, Welles and Usher. Johnson expressed no opinion and the matter was not then decided.

It was not taken up again until the 24th, when the president submitted his own plan of reconstruction of North Carolina, following Lincoln's closely. This was adopted by the Cabinet without objection, in the form in which we have seen it issued. He retained the expression as to loyal citizens, but, by requiring also the qualifications prescribed by the Constitution and laws of North Carolina at the date of secession, eliminated entirely any question of negro suffrage. Stanton himself was to testify later that "the objection of the president to throw the franchise open to colored people appeared to be fixed, and I think every member of the Cabinet assented to the arrangement as it was specified in the proclamation." The importance of this action as to North Carolina consisted in the fact that proclamations identical, except as to the name of the provisional governor, were issued in rapid succession as to the other six Southern States whose condition was similar. Johnson, it was true, suggested to the Mississippi convention, as well as to others, that extending the elective franchise to persons of color who could read and write and owned real estate valued at \$250 would be expedient, but he did not insist upon it as he did on annulling the ordinance of secession, repudiation of the rebel debt, and abolition of slavery. It was not adopted, in fact hardly considered, by any of the Southern States, and the president was committed to the view that this was a matter for the States exclusively.

The policies of both presidents, however, went upon the theory that not only had each State remained in the Union, but that the insurrection had merely been one too powerful for local measures; that when it had been subdued there was nothing to prevent the State from resuming its normal relations to the Union, or rather nothing to prevent the loyal citizens from resuming the guidance of the State, which might have been out of its mind, but never out of the Union. But there was another possible view, which was that the States had practically got out of the Union, whether legally or not; that the very status of war had changed the political status of these communities. This found advocates in Congress.

There might also be a difference in the means to be used under the two theories. According to the president, recognition was an executive act, just as the proclamation of insurrection had been an executive act. To Congress, on the other hand, there might appear to be necessity for corrective legislation before the States under any name or form could come back into the Union. It was for Congress under the Constitution to declare war; it was for Congress therefore to declare when and how the war, whether civil or foreign, should end. The theories were different, the means were different, the result might be different also.

Renan justly tells us that progress is effected not by majorities, as we commonly say, but by minorities. Generally the majority of a nation are indifferent to public affairs, ready to go either way, while the really earnest men, the men who rule, are few in number and either infuse their enthusiasm into others or force them to submit.

Never was this truer than of the anti-slavery movement. As late as 1859 Garrison was mobbed in the streets of Boston, and Lincoln long disclaimed any idea of forcing abolition upon the South. But the Southern statesmen instinctively felt, although they could not have explained it, that abolition was impending, and they acted accordingly. Lincoln always held that no action of Congress or of the

executive could abolish slavery within the States, for slavery was a domestic institution, protected by the Constitution. With the progress of war the possibility of getting at the same result as a military measure came to the fore. Secretary of War Cameron in a report as early as 1861 advocated the arming of slaves as soldiers, but the president toned down this passage. General Butler at New Orleans enlisted colored troops, but they were free mulattoes, who had been part of the State military already. Lincoln resisted outside pressure as long as he could. When a delegation of ministers called on him to urge that God wanted emancipation, Lincoln replied that if the Almighty God was disposed to make any revelation on the subject it would seem more likely that it would be to the president, who had the matter in charge, than to ministers who should be looking after churches. Lincoln only gradually came around to emancipation as a war measure. As he expressed it, he adopted emancipation only as a last card, and on September 22, 1862, he gave notice that it would be proclaimed in the districts still in rebellion on the first day of January succeeding.

There came to be in the army as soldiers or workmen over one hundred and fifty thousand negroes, who took the place of so many white men and to that extent lessened the burden of conscription. The Confederates did not until the last put the negroes in the ranks, but the employment of the slaves in the cotton fields released just so many white men for service at the front.

When Lincoln had finally resolved upon emancipation it was on the basis of compensation. He favored the act which was passed for abolition of slavery in the District of Columbia and the reimbursement of the owners at the rate of three hundred dollars per slave. There is no doubt that this was his plan for all the States. He recommended to Congress the resolution which passed for compensated abolition in the border States, although none of these accepted the suggestion and only Missouri even gave it a consideration. In a message of December, 1862, he

recommended an amendment of the Constitution providing compensation for emancipation and also securing colonization of the freedmen.

As late as the conference at Hampton Roads he told the Confederate commissioners that he would be in favor of a liberal indemnity for slave property provided war absolutely ceased and slavery was abolished by the Southern States. As soon as he returned to Washington he spent a day putting this plan into formal shape, and called his Cabinet together for the consideration of a joint resolution and proclamation which he had prepared. These offered the Southern States four hundred million dollars, equal to the cost of the war for 200 days, to be paid in six per cent government bonds, and applied pro rata on the slave population, one-half to be due on April 1st, and the other upon the ratification of the Thirteenth Amendment before July 1st, by a sufficient number of States. Every member of the Cabinet opposed the plan, and the president, sadly saying: "You are all opposed to me," ceased the discussion and took away the paper. This was found after his death endorsed in his handwriting: "February 5, 1865, to-day, these papers, which will explain themselves, were drawn up and submitted to the Cabinet, and unanimously disapproved by them.—A. Lincoln."

Negro suffrage was a very different matter. Except a suggestion to admit in Louisiana a few very intelligent negroes to the privilege, it would be difficult to show Lincoln's advocacy of this policy. As late as June, 1863, he said he preferred that even emancipation be gradual where possible, and so conservative a man could therefore not favor immediate enfranchisement of what he called an ignorant, landless, homeless population. His proposed policy as to Virginia and North Carolina, carried out by his successor, contained no such doctrinaire provisions; at times he seemed to favor eliminating the negroes by colonization. Those whom he named radicals, however, could progress more rapidly than the cautious president.

In the Senate there was no stronger man than Charles Sumner, of Massachusetts. Highly educated, a graceful and forceful writer, he was controlled by an abstract passion for liberty,—liberty, during his time, of the slaves, although had he lived later the claims of labor or some industrial cause would have captivated him as greatly. He had few friends and perhaps no intimates, for his cold intellectual nature encouraged none. He lived too far from the South to appreciate the difficulties of unconditional emancipation, and so perhaps all the more emphatically declaimed in its favor. Anything to accomplish it was to his mind lawful, and this resulted in a construction of the Federal Constitution which would have made the government centralized beyond example.

To Sumner the Civil War meant a war for the abolition of slavery, while to Lincoln it was a war for the Union, in which slavery was to be preserved or abolished, according to the exigencies of the case. Sumner early formulated a doctrine destined to be influential. He recognized well enough that practically the whole people of each Southern State had favored secession and that these States were in point of fact in hostile array against the Union. Like Lincoln he believed that the States had no existence apart from the Union, but he drew a different conclusion from this premise. To Lincoln the local government was usurped by the rebels, but the State itself could do no wrong and still lived in the bosom of the loyal, even if they were like the ten men in Sodom, or a nucleus no bigger than a man's hand. To Sumner, on the other hand, the State could not exist apart from the majority, especially the large majority of its citizens, for they were the State. When they rebelled, the State rebelled with them and in effect committed political suicide. The Constitution did not provide for such a case for the simple reason that the Constitution provided only for communities in their proper relation to the Union and could not provide for non-existent States. The practical result was that when the Union subjugated the country, it



Impeachment of Andrew Johnson, signed by all members of Congress.
From a facsimile in the Library of Congress, Washington.

readmitted in the shape of new States, if at all, and there was no question under the Federal Constitution that this could be done only by an enabling act of Congress, stating all necessary qualifications of electorate and government, and followed by a convention in each proposed State which must accept the conditions and frame a satisfactory local constitution. Whether the territory was conquered from a foreign power, or had lapsed into a territorial status because of State suicide or in any other way, would make no difference. To Shellabarger, as to Sumner, the South constituted merely one or more territories and could become States again only by the action of Congress and not of the executive.

As early as August, 1865, an admirer of Sumner outlined in the *Atlantic Monthly* what might prove to be the course of evolution on the subject. The war, it was declared, left the South conquered and without governments, all men free and in one common mass. The Union could of that clay make vessels,—some to honor and some to dishonor, perhaps,—and if any people became voters, it could be only by a Federal fiat. It was necessary to exercise this power with care, because, as the result would be an increase of Southern representatives, but one-sixth of the North need become traitors (and no country was free of bad men) in order for the rebels to secure control and repudiate the national debt. Somewhat as Burke saw in the French refugees the true, moral France and the blot on the map bearing the name but an empty space, the loyal men at the South alone should be recognized as citizens. This was necessary for the protection of the negro, the new ward of the nation; for Sumner truly said the child could not safely be entrusted to the care of the wolf. Confer the ballot on the negro and its use will fit him for its exercise, and meantime gratitude will ally him with the North. Even selfish cunning “will bring them into harmony with the purposes, if not the spirit, of the largest minded philanthropy and statesmanship of the North.” There must be “enough plantation Hampdens and Adamses to give political organization to their

brethren and make their votes efficient." In short, the negroes were not a lower race, not even a child-race. Slavery had criminally prevented the use of their powers and now it would be as a young bird learns to fly by merely stretching the waiting wing. Negro suffrage, to this writer, was the logical sequence of negro emancipation.

The East was not to stand alone in its ideals, for among the leaders of Congress with similar thoughts might be mentioned O. P. Morton and B. F. Wade, senators from Indiana and Ohio. Wade had survived the joint manifesto which had been the political and natural end of Henry Winter Davis, and at the time that Johnson succeeded Lincoln, Wade with other Republicans had called on him, and even indicated that the change was for the better. "Johnson," said he, "we have faith in you. By the gods, there will be no more trouble in running the government." For he had seen Johnson's rugged honesty and devotion to the Union tried in the Senate as well as in Tennessee. "Bluff Ben Wade" came of old Puritan stock and it was his ancestress who in a poem on the Last Judgment had to face the old dogma of eternal punishment for sin even in infants. Their fate was certain, but her womanly heart ascribed enough mercy to the divine bosom to award to those innocents "the easiest room in hell"; and somewhat similar problem and solution were to come before her descendant as to the white people of the South. He was a man of strong convictions, as when he ventured to condemn the hanging of Mrs. Surratt as a crime because not justified by the evidence. Wade was typical of the times, and like Morton, of Indiana, looked with suspicion on the South, ready to credit any story against her, and, like his party associates, was to believe that it was essential to the preservation of the Union that the Republican party remain in power. Not unlike the older Puritans, they held that the earth was made for the saints and that they were themselves the saints.

Thaddeus Stevens, born in Vermont but long living in Pennsylvania, was as chairman of the ways and means

committee during the Civil War practically leader of the House. He, too, was enamored of freedom for the slaves. Deformed, aged, combative, his nature had become soured and he was willing not only to reconstruct the Constitution, but willing to wade with John Brown through blood to accomplish emancipation. Slavery, he said, was the Satanic Institution. He hated with undying hatred, and his very earnestness, feared at first, finally became a rallying point for the radicals. He was more radical than Sumner himself and at the same time more practical. Their ends being the same, they found no great difficulty in joining forces and directing the two Houses to a common result.

Stevens also had a theory as to the relation of the Union to the seceding States. He did not find the Constitution in his way, for to his mind people who abjured the Constitution had no rights under it and could expect no constitutional treatment. He was as far as anyone from admitting that a State had the right to secede, but, so far as a State by force and arms kept out the Federal authorities and the Federal armies, he was willing to admit that in point of fact it had become *pro hac vice* a foreign country. When subjugated, therefore, it was subjugated in the full sense of the word. The whole South had rebelled and was now suffering the result, and for that reason the whole South as a conquered territory could be divided out as Congress might please. The original State lines could be preserved or they could be abrogated, as might be convenient. He could not accept the theory that the loyal citizens alone made up the State, whether their number were ten per cent or any other fraction, for the State was made up of all its legal citizens, good or bad. "The control of republics depends on the number, not the quality of the voters. This is not a government of saints. It has a large sprinkling of sinners."

The conduct of Stevens during the war was an earnest of what it would be afterward. The Crittenden resolutions of 1861 he opposed and characterized as "an apology for

fighting," and he it was who had them laid upon the table when offered again, and in the debate on the confiscation bill in July, 1861, he declared his opinion that the slaves should be armed if the war continued. When Lincoln, in March, 1862, asked for the passage of a joint resolution declaring that the United States should aid financially a State adopting gradual abolition, Stevens voted for it, but said that he could not see why one side was "so anxious for it, or the other side so anxious to defeat it. I think it is about the most diluted milk-and-water gruel proposition that was ever given to the American nation." To his mind the only reason for a motion that was made to postpone was "for the purpose of having a chemical analysis to see whether there was any poison" in the measure. He it was who moved to consider the bill to abolish slavery in the District of Columbia, and the next month supported Lovejoy's measure to prohibit slavery in all territories and public places. Nor was he discouraged that the elections of 1862 showed large Democratic gains, even in his own district. He still supported the plan of enlisting negro soldiers; for, although he did not expect to see the day when in a "Christian land merit shall counterbalance the crime of color," he proposed "to give them an equal chance to meet death on the battlefield. . . . The only place where they can find equality is in the grave. There all God's children are equal."

He supported from the first the proposed amendment to abolish slavery, which passed the Senate but in the House did not receive, even in June, 1864, the necessary two-thirds. He would not vote to admit any of the representatives from Louisiana or other Southern States reconstructed by the president, and would not even support the Wade-Davis bill, because, as he said, it "partially acknowledges the rebel States to have rights under the Constitution, which I deny, as war has abrogated them all." He declared, amidst laughter, that he refused to vote, under protest. Stevens was a delegate to the Republican Convention of 1864, and

voted for Andrew Johnson for vice-president, although with the greatest reluctance. He asked A. K. McClure, "Can't you find a candidate for vice-president in the United States, without going down to one of those damned rebel provinces to pick one up?"

The American people are as a rule disposed to peace and to letting things alone. In time of prosperity or promise they are not apt to become enthusiastic in politics. They would hardly have opposed on principle President Johnson's method of reconciliation, and indeed the 1865 elections showed their approval. It was doubtful if the people would resent the appearance and participation of ex-Confederates in Congress or in legislation. It might well be that what Stevens called whitewashed rebels would be to their minds a necessity of reunion if the South was to be truly represented at all. But if the Republican leaders could persuade them that abolition was itself practically abolished, that the negroes were by a studied plan still held in subjection, the result might be different; and to this Stevens, Sumner and other leaders devoted their attention. The Republican leaders must take advantage of that underlying love of fair play, of justice, in the American heart, which sometimes makes a moral appeal overwhelming in result.

The motives of men may not be material in history if their acts are right, but their motives shed much light upon the nature and extent of their acts. It may be that some of these leaders believed the supremacy of their party to be essential, and at all events they united in endorsing the view that the danger of ex-Confederates combining with the Democrats of the North must be obviated by reducing the number of the Confederate leaders and by securing "allies" for the Republican party in the South. Stevens said, "According to my judgment the insurrectionary States ought never to be recognized as capable of acting in the Union or of being counted as valid States until the Constitution shall have been so amended as to make it what its makers intended; and so as to secure perpetual

ascendency to the party of the Union." The Southerners after readmission might prove renegades, for human nature in the face of temptation is much the same the world over; and to Stevens the quickest and surest way was now in peace to arm the negro with the ballot for the purpose of protecting himself and helping his northern friends, just as in the war he had been armed with the gun for a similar purpose.

The report made by Schurz of his observations in the summer of 1865 became the property of Congress and greatly colored thought, especially after the southern legislatures had met and worked out the policy predicted by him. Whether he would have endorsed the renewal of military rule at this time was immaterial; he furnished arguments for those who did favor striking down the new civil governments and substituting the military.

For the protection of the negro, Schurz had advocated suffrage. In the right to vote he said the negro would find the best permanent protection against oppressive class legislation as well as against individual persecution, although Schurz hoped that the time would soon come when the negro vote would be divided between different political parties. Negro suffrage he found almost universally dreaded and he had no hope that it would be voluntarily conferred by the whites. The only manner in which they could be induced to grant the negro suffrage would be to make it a condition precedent to readmission of the States. It seemed to him not so important that reconstruction be immediate as that it be thorough.

"Practical attempts on the part of the southern people to deprive the negro of his rights as a freeman," he said, "may result in bloody collisions, and will certainly plunge southern society into restless fluctuations and anarchical confusion. Such evils can be prevented only by continuing the control of the national government in the States lately in rebellion until free labor is fully developed and firmly established, and the advantages and blessings of the new order of things have disclosed themselves. This desirable result

will be hastened by a firm declaration on the part of the government that national control in the South will not cease until such results are secured. Only in this way can that security be established in the South which will render numerous immigration possible, and such immigration would materially aid a favorable development of things.

"The solution of the problem would be very much facilitated by enabling all the loyal and free-labor elements in the South to exercise a healthy influence upon legislation. It will hardly be possible to secure the freedman against oppressive class legislation and private persecution, unless he be endowed with a certain measure of political power.

"As to the future peace and harmony of the Union, it is of the highest importance that the people lately in rebellion be not permitted to build up another 'peculiar institution' whose spirit is in conflict with the fundamental principles of our political system; for as long as they cherish interests peculiar to them in preference to those they have in common with the rest of the American people, their loyalty to the Union will always be uncertain. . . .

. . . "There are great reasons for hope that a determined policy on the part of the national government will produce innumerable and valuable conversions. This consideration counsels lenity as to persons, such as is demanded by the humane and enlightened spirit of our times, and vigor and firmness in the carrying out of principles."

On the day that Congress met, Stevens, now convinced that his party had caught up with him, proposed a resolution for a joint committee of fifteen to report on the condition of the States which had formed the so-called Confederate States of America. This measure met with great opposition, for it was an effectual breaking with the president's plan of restoration. Representative Henry J. Raymond, the distinguished New York journalist, sustained the president and it was left for Shellabarger, of Ohio, to reply in terms which aimed at renewing the old war spirit. He said: "The rebels framed iniquity and universal murder into

law. . . . Their pirates burned your unarmed commerce upon every sea. They carved the bones of your dead heroes into ornaments, and drank from goblets made out of their skulls. They poisoned your fountains, put mines under your soldiers' prisons; organized bands whose leaders were concealed in your homes; and ordered the torch and yellow fever to be carried to your cities, and to your women and children. They planned one universal bonfire of the North from Lake Ontario to the Missouri." The resolution passed on demand of the previous question by a vote of one hundred and thirty-three to thirty-six.

Stevens also secured the passage of a concurrent resolution, which was not adopted by the Senate until the 23d of February, that neither House should admit any member from the insurrectionary States until the report of the joint committee should have been made and acted on.

The committee was composed on the part of the Senate of William P. Fessenden, Maine; James W. Grimes, Iowa; Ira Harris, New York; Jacob M. Howard, Michigan; Reverdy Johnson, Maryland; George H. Williams, Oregon; and on the part of the House of Representatives of Thaddeus Stevens, Pennsylvania; Elihu B. Washburne, Illinois; Henry Grider, Kentucky; Justin S. Morrill, Vermont; John A. Bingham, Ohio; Roscoe Conkling, New York; George S. Boutwell, Massachusetts; Henry T. Blow, Missouri; and Andrew J. Rogers, New Jersey. Of them only Johnson, Grider and Rogers were Democrats.

They divided themselves into sub-committees. Grimes, Bingham and Grider took up the matter of Tennessee, in which there was little oral testimony introduced and the bulk of the evidence was made up of legislative and similar proceedings. As a result the committee was able to report a joint resolution declaring Tennessee to be one of the United States on an equal footing with the others, upon the express condition that the people should maintain their existing constitution and laws excluding rebels from the franchise for the periods therein declared, that the rebel debt should

never be paid, and that the State would not claim compensation for slaves emancipated. This measure was not taken up, however, for the present.

Howard, Compton and Blow, all Republicans, were the sub-committee on Virginia, North Carolina and South Carolina. They began taking testimony January 23, 1866, and from then until April 19th examined many witnesses, among them Robert E. Lee. Most of these, however (as was the case before other sub-committees), were Republicans, men with a grievance or with a hope that made them not ashamed. The sub-committee on Georgia, Alabama, Mississippi and Arkansas was made up of Harris, Boutwell and Morrill, all Republicans, and their labors extended from January 22 to April, 1866. Possibly their most distinguished witness was A. H. Stephens, and the testimony was almost as voluminous as that relative to Virginia and the Carolinas. The sub-committee on Florida, Louisiana and Texas consisted of Williams, Washburne and Rogers, and their examination of witnesses lasted until May 19th. The evidence submitted was about the same in amount as that of the preceding sub-committee.

This winter was to be an eventful one. There was the feeling in Congress that reconstruction was not an executive function, but, if the reconstruction adopted by the executive had been satisfactory, some way would have been found to harmonize the instrumentalities. The real trouble was deeper than jealousy between the departments of government. The Republicans in Congress came back to Washington feeling that the Southern States were still controlled and would always be controlled by the rebel element, or rather that the Southern States were essentially rebel still. If their delegations were admitted, they would unite with the northern Democrats, and then Republican supremacy was doomed. In the Senate at this time were 39 Republicans and one Democrat, representing twenty-five States; in the House were one hundred and forty-one Republicans and forty-three Democrats. The war being over, it would be natural that

the Democratic minority would become larger, and, according to Stevens, if reinforced by the eighty-three new Southern members, the majority would be reversed. Some no doubt honestly believed that this would be a death-blow to the Union, that the results of war would be lost, and all certainly appreciated that it would be the end of the Republican office-holders. It was only a little later that Senator Wilson, of Massachusetts, could eulogize his party as embracing "in its ranks more of moral and intellectual worth than was ever embodied in any political organization in any age or in any land. . . . Created by no one man or set of men, but brought into being by Almighty God Himself . . . and endowed by the Creator with all political power and every office under Heaven."

Therefore although the president's message advocating harmony along the lines he had blocked out was well received, both in Congress and throughout the country, there was a determined undercurrent of resolve not to recognize the restoration of the South until some satisfactory pledges were had as to the supremacy of the Republican party. One plan was to keep out southern members indefinitely. Sumner declared to the Republican convention in Massachusetts "that no one could say that a generation must not elapse before the rebel communities have been so far changed as to become safe associates in a common government. . . . Time, therefore, we must have. Through time all other guarantees may be obtained; but time itself is a guarantee." This was in line with a proposed Fourteenth Amendment reported by the Reconstruction Committee, which would reduce representation of States who should deny suffrage on account of race or color. It passed the House January 31st, but failed in the Senate, where it received a majority less than the necessary two-thirds. To Sumner it soiled the purity of the Constitution by introducing recognition of race distinctions, and his carefully written speech in opposition contained what Fessenden in reply called "flowers of rhetoric", such as "compromise of human rights . . . violating the

national faith . . . dishonoring the name of the Republic . . . bad mutton . . . muscicular abortion . . . new anathema maranatha . . . abomination; paragon and master-piece of ingratitude . . . abortive of all good . . . shocking to moral sense . . . the very Koh-i-noor of blackness . . . essential uncleanness . . . disgusting ordure . . . loathsome stench . . . the men who support it Harpies . . . Pontius Pilate with Judas on his back. . . . You are now hurrying to drop into the text a political obscenity. . . . Here is nothing less than a mighty House of ill-fame, which it is proposed to license constitutionally for a political consideration."

But the Reconstruction Committee still sat and hatched and a suitable remedy might yet be devised. One scheme was to confer suffrage upon the negroes on the idea that they would be grateful and vote the Republican ticket. This some advocated as a matter of principle, and none more ardently than Sumner. It was early found that the president was unalterably opposed. To a delegation consisting of Fred Douglass and other negroes calling upon him in February, 1866, he declared that he would not sanction such a step at the South because it would inevitably bring about the conflict of races. To this the negro Douglass published the reply that if the whites were hostile it only showed more clearly the necessity of protecting the negro by the ballot. A majority of the Republicans were not yet in favor of this, but party expediency might make it advisable. Boutwell in the House was no less ardent than Sumner in the Senate, and if anything more practical in his methods, while from the beginning negro suffrage was the goal of Stevens. It ever enraged him to hear such rank heresy as that America was a white man's country.

In February a bill to extend the term of the Freedmen's Bureau was vetoed by the president in one of his trenchant messages setting out the unconstitutionality of many of its features and its tendency to bring on a clash of races, and

an attempt to pass it over his veto failed. Significant of the increasing breach between the executive and Congress was a speech made by Johnson to a crowd calling upon him on Washington's birthday. In it he belabored the radicals and named Stevens, Sumner, Wendell Phillips and others of the same stripe as being as much opposed to the fundamental principles of this government and laboring as earnestly to destroy them as were the men who fought against the Union. The speech was tactless, to say the least, but quite characteristic of Johnson, who had truly told the southern members in 1861 as they were leaving him alone in the Senate, that his two eyes had never looked upon anything in the shape of mortal man that his heart feared. From this time the epithet of "Judas" was a frequent one, and often the term "Jeff Davis's successor", and the radicals began to prepare for a struggle with the president as well as with the South,—indeed, affecting to think that the two meant the same thing. Somewhat later Stevens in his caustic way pretended that he did not believe the president had delivered any such address. He told the House confidentially that it was a Copperhead slander upon this good man; for if it had been delivered all the bad things that had been said of Johnson would be true.

The leaders devoted their attention to passing a Civil Rights bill, which promptly received a veto accompanied by an even stronger message; but the statutes record that notwithstanding the president's objections of April 6th both Houses three days later passed the law "to protect all persons in the United States in their civil rights and furnish the means of their vindication." The first section declared "That all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right, in every

State and Territory in the United States, to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding." The remaining sections conferred jurisdiction on the United States courts to enforce the new law, with power of removal from State courts. Punishment was denounced against violators, and the land and naval forces could be used to enforce the execution of the act. It would seem that this should effectually obviate any discrimination against the newly-made citizens.

It was the first time in the history of the United States that a veto had been overridden and this was due to the fact which showed that the cohesion of the majority had now become perfect and that they would stop at nothing. They had, by persuading Morrill to break his pair with a sick member, ousted a Democratic senator from New Jersey. The pious Wade in the Senate openly thanked God for sending illness to prevent another member from being present to uphold the dictation of a despot, and declared that he would not yield to comity and wait on the senator's recovery but would take advantage of the divine intervention. There had been from the first a large majority in the House and now the necessary two-thirds had also been obtained in the Senate.

On April 30th the Reconstruction Committee made a report signed by Fessenden, Grimes, Harris, Howard, Williams, Stevens, Washburne, Morrill, Bingham, Conkling and Boutwell, which on May 8th was taken up in the House for prolonged discussion. There were many able speeches, but little more light was thrown on the subject than was found in the voluminous evidence outlined by Schurz and now amplified before the committee, and for the radical

course advocated no clearer summing up of the situation could be found than that set out at the close of the report.

"First. The seats of the senators and representatives from the so-called Confederate States became vacant in the year 1861, during the second session of the thirty-sixth Congress, by the voluntary withdrawal of their incumbents, with the sanction and by direction of the legislatures or conventions of their respective States. This was done as a hostile act against the Constitution and government of the United States, with a declared intent to overthrow the same by forming a southern confederation. This act of declared hostility was speedily followed by an organization of the same States into a confederacy, which levied and waged war, by sea and land, against the United States. This war continued more than four years, within which period the rebel armies besieged the national capital, invaded the loyal States, burned their towns and cities, robbed their citizens, destroyed more than 250,000 loyal soldiers, and imposed an increased national burden of not less than \$3,500,000,000, of which seven or eight hundred millions have already been met and paid. From the time these confederated States thus withdrew their representation in Congress and levied war against the United States, the great mass of their people became and were insurgents, rebels, traitors, and all of them assumed and occupied the political, legal and practical relation of enemies of the United States. This position is established by acts of Congress and judicial decisions, and is recognized repeatedly by the President in public proclamations, documents and speeches.

"Second. The States thus confederated prosecuted their war against the United States to final arbitrament, and did not cease until all their armies were captured, their military power destroyed, their civil officers, State and confederate, taken prisoners or put to flight, every vestige of State and confederate government obliterated, their territory overrun and occupied by the federal armies, and their people reduced to the condition of enemies conquered in war, entitled

only by public law to such rights, privileges, and conditions as might be vouchsafed by the conqueror. . . .

"Third. Having voluntarily deprived themselves of representation in Congress for the criminal purpose of destroying the federal Union, and having reduced themselves, by the act of levying war, to the condition of public enemies, they have no right to complain of temporary exclusion from Congress; but, on the contrary, having voluntarily renounced the right to representation, and disqualified themselves by crime from participating in the government, the burden now rests upon them, before claiming to be reinstated in their former condition, to show that they are qualified to resume federal relations. In order to do this, they must prove that they have established, with the consent of the people, republican forms of government in harmony with the Constitution and laws of the United States, that all hostile purposes have ceased, and should give adequate guarantees against future treason and rebellion—guarantees which shall prove satisfactory to the government against which they rebelled and by whose arms they were subdued.

"Fourth. Having, by this treasonable withdrawal from Congress, and by flagrant rebellion and war, forfeited all civil and political rights and privileges under the federal Constitution, they can only be restored thereto by the permission and authority of that constitutional power against which they rebelled and by which they were subdued.

"Fifth. These rebellious enemies were conquered by the people of the United States, acting through all the co-ordinate branches of the government, and not by the executive department alone. The powers of conqueror are not so vested in the president that he can fix and regulate the terms and settlement and confer congressional representation on conquered rebels and traitors. Nor can he, in any way, qualify enemies of the government to exercise its law-making power. The authority to restore rebels to political power in the federal government can be exercised only with the concurrence of all the departments in which political power

is vested; and hence the several proclamations of the President to the people of the Confederate States cannot be considered as extending beyond the purposes declared, and can only be regarded as provisional permission by the commander-in-chief of the army to do certain acts, the effect and validity whereof is to be determined by the constitutional government, and not solely by the executive power.

"Sixth. The question before Congress is, then, whether conquered enemies have the right, and shall be permitted at their own pleasure and on their own terms, to participate in making laws for their conquerors; whether conquered rebels may change their theatre of operations from the battlefield, where they were defeated and overthrown, to the halls of Congress, and, through their representatives, seize upon the government which they fought to destroy; whether the national treasury, the army of the nation, its navy, its forts and arsenals, its whole civil administration, its credit, its pensioners, the widows and orphans of those who perished in the war, the public honor, peace and safety, shall all be turned over to the keeping of its recent enemies without delay, and without imposing such conditions as in the opinion of Congress, the security of the country and its institutions may demand.

"Seventh. The history of mankind exhibits no example of such madness and folly. The instinct of self-preservation protests against it. The surrender by Grant to Lee, and by Sherman to Johnston, would have been disasters of less magnitude, for new armies could have been raised, new battles fought, and the government saved.

"Eighth. As has been shown in this report, and in the evidence submitted, no proof has been afforded to Congress of a constituency in any one of the so-called Confederate States, unless we except the State of Tennessee, qualified to elect senators and representatives in Congress. No State constitution, or amendment to a State constitution, has had the sanction of the people. All the so-called legislation of State conventions and legislatures has been under military

dictation. If the president may, at his will, and under his own authority, whether as military commander or chief executive, qualify persons to appoint senators and elect representatives, and empower others to appoint and elect them, he thereby practically controls the organization of the legislative department. The constitutional form of government is thereby practically destroyed, and its powers absorbed in the Executive. And while your committee do not for a moment impute to the President any such design, but cheerfully concede to him the most patriotic motives, they cannot but look with alarm upon a precedent so fraught with danger to the republic.

"Ninth. The necessity of providing adequate safeguards for the future, before restoring the insurrectionary States to a participation in the direction of public affairs, is apparent from the bitter hostility to the government and people of the United States yet existing throughout the conquered territory, as proved incontestably by the testimony of many witnesses and by undisputed facts.

"Tenth. The conclusion of your committee therefore is, that the so-called Confederate States are not, at present, entitled to representation in the Congress of the United States; that, before allowing such representation, adequate security for future peace and safety should be required; that this can only be found in such changes of the organic law as shall determine the civil rights and privileges of all citizens in all parts of the republic, shall place representation on an equitable basis, shall fix a stigma upon treason, and protect the loyal people against future claims for the expenses incurred in support of rebellion and for manumitted slaves, together with an express grant of power in Congress to enforce those provisions."

In order to carry the principles of their report into practical operation, the committee recommended the adoption of a constitutional amendment which should secure the results of the war, and two bills, one of which excluded five classes of Confederates from office and the other provided

that representatives and senators from a State lately in rebellion could be admitted upon its ratification of the proposed constitutional amendment.

The amendment as proposed repeated some provisions of the Civil Rights law, based representation on population, excluded ex-Confederates until July 4, 1870, and forbade payment of the rebel debt. The measure passed the House, but in the Senate it was amended and made to exclude Confederates who had taken an official oath of allegiance to the United States before the war. These changes were concurred in by the House.

In answer to the proposed legislation of the Southern States, aiming to introduce a system of public guardianship of the negroes, the first section forbade a State to abridge the privileges of citizens, or deprive any person of life, liberty or property without due process of law, or deny to any person within its jurisdiction equal protection of the laws. In this way it was hoped that legislation and administration of law would be enforced uniformly as to both races. By the second section the provision in the Federal Constitution counting three-fifths of the slaves for representation was abolished and the whole population was included, except Indians not taxed. This would increase, it is true, the number of southern representatives, but on the other hand if the right to vote at any election, State or Federal, was denied or abridged to any male citizen of age, except for participation in rebellion or other crime, the basis of representation was to be reduced proportionately. The wording met Sumner's objection to the race discrimination in the original draft of the amendment.

A third section prescribed the qualifications of senator, representative, elector and other officials by forbidding the election of anyone who having previously taken an official oath to support the Constitution of the United States had directly or indirectly engaged in rebellion. This of course was aimed at ex-Confederate officers and in effect took away the president's pardoning power, as Congress

alone was given authority to remove such disability, and that only by a two-thirds' vote.

The fourth section not only removed any fear that the public debt of the United States, including pensions and bounties, might be questioned on the admission of representatives from the late seceding States, but even went further and prevented the United States and every State from assuming or paying any debt or obligation incurred in the aid of insurrection or rebellion, or for the loss or emancipation of slaves. All such claims were declared to be illegal and void. The fifth section gave Congress the right to enact all necessary legislation.

The amendment was sent to the States June 13th, and ratifications began early. Connecticut ratified it June 29th, New Hampshire July 6th. Governor Brownlow, the fighting parson, an enemy of the president, was anxious to have Tennessee act, and summoned the legislature, then in adjournment. General Thomas refused to assist, but Brownlow got fifty-four members together, and the sergeant-at-arms arrested two absentees and held them long enough for them to be counted. Brownlow then sent a telegram notifying Congress and ending "give my respects to the dead dog of the White House." This message was joyfully announced by J. W. Forney, the secretary of the Senate, whom the president in a public speech had called a "dead duck not worth the wasting of ammunition," and immediately the House passed the joint resolution restoring Tennessee to her practical relations to the Union. Stevens and Boutwell both opposed it, and when the resolution reached the Senate it was itself reconstructed. After a long preamble, it provided for the readmission of the State, and, much to the surprise of the radicals, the president signed the measure, —somewhat as Lincoln had signed that for counting the presidential vote. In a message Johnson said that he did not endorse the preamble nor did he think the anomalous resolution anything more than a declaration of opinion. Tennessee's eight representatives, elected in August, 1865,

four Johnson men and four radicals, were now sworn in, and her two senators were also admitted, although with difficulty in the case of Patterson, a son-in-law of the president, because in order to be able to exercise his functions as a judge during the war he had taken an oath of allegiance to the Confederacy.

The two bills reported by the Reconstruction Committee did not become laws. The first provided for the readmission of a State after the proposed amendment had become a part of the Constitution and been ratified by the State in question, and the second declared certain five classes of the Confederates ineligible to office under the United States. The second had become useless on account of the change made in the proposed Fourteenth Amendment, and although the first was debated from time to time it was never pressed to a vote. It was too stringent for one side and too lenient for the other. No reconstruction would be satisfactory to the radicals without a provision for negro suffrage, and that for the present could not be secured.

Then followed one of the most exciting summers in American history. There was no presidential election, but a new House was to be elected and the issue had been drawn between the president and Congress. Johnson expected a ground-swell which would sweep the radicals out of power; the radicals worked for an increase of their voting strength at Washington. Four national conventions were held,—one in which ex-Confederates walked arm in arm with Federals, followed shortly by another, also at Philadelphia, in which the negro Douglass was an admitted delegate. Two others were soldier conventions, one of officers, who favored the president; the other of privates, who followed Congress. A massacre at the Mechanics' Institute in New Orleans, growing out of an attempt to resuscitate a defunct constitutional convention, added fuel to the campaign flames. Johnson in a February speech had spoken of "swinging around the circle of the country" and turning his attention from the subdued rebels to the traitors at the North. This expression now

became famous, for it was applied to the progress which the president and his Cabinet, accompanied by Grant, Farragut, and others, made to and from the dedication at Chicago of a monument to Stephen A. Douglas. He spoke often, he spoke earnestly, but more in a manner becoming a county candidate in East Tennessee than a president of the United States. At Cleveland he declared he "cared nothing for his dignity," and was as violent in his expressions as the mob which confronted him. At Indianapolis the crowd refused to hear him speak at all. Stevens at his little Pennsylvania home said that he had been forbidden by his doctor to read, but thought this did not include such recreation as keeping up with the circus then perambulating the country. The chief interest, he continued, lay in the performances of the main clown. Johnson had once declared Stevens should be hanged, and Stevens now said that the president, having been a tailor and had many trades, was disposed to go into one more, and be a hangman.

The result of the election was disastrous to the administration, and the radicals returned in the fall assured that the new Congress to meet in March, 1867, would do anything that was desired. Nor were they negligent in the meantime. Congress had long regarded the District of Columbia as a fit place for political experiments. Here in Lincoln's time had been the first governmental emancipation, and a bill was now passed to try universal suffrage. President Johnson vetoed the measure, but on January 7 and 8, 1867, the two Houses repassed it over his veto, for vetoes were now looked upon simply as a necessary nuisance, causing delay, but otherwise not counting. On February 6th, the joint committee reported a bill to wipe out the pretended governments of the Southern States and put them under military rule. When this measure reached the Senate the word "pretended" was changed into "not legal", instead of the general the president was authorized to name commanders, and a provision was added by which the States could on conceding negro suffrage get from under military

rule. The House at first refused to concur, but finally accepted the Senate amendments and added two others even more stringent. The Senate change as to the appointing power became the less important, as a provision was incorporated in the army appropriation bill which fixed the headquarters of the general at Washington, provided that all military orders by the president must be issued through that officer, and forbade his removal or assignment elsewhere without the approval of the Senate. Rather than deprive the soldiers of their pay, the president assented to the appropriation measure, although with a protest, but sent in a veto of the reconstruction bill as well as a bill as to tenure of office. The message as to the latter was written by Seward aided by Stanton, and the former by Jeremiah S. Black, whose caustic style was somewhat toned down by the president. The message called the reconstruction bill an attainder of nine millions of people, of whom not one had been heard in his own defense, and all were to be committed to the tender mercies of a military officer, whose will was to take the place of law. The House and the Senate, however, overrode the veto on March 2d, and the congressional plan became a law.

This act, which reversed the policy of the government in regard to the Southern States, was as finally passed expressed in a preamble and six short sections. It underwent amendment twice during the year, but only to provide ampler machinery. The principles were not altered.

The preamble stated that "no legal State governments or adequate protection for life or property now exists in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas and Arkansas; and it is necessary that peace and good order should be enforced in said States until loyal and republican State governments can be legally established." The theory upon which this declaration was founded was that the State organizations which President Johnson had restored gave no adequate protection for the life or property of freedmen.

It took advantage of the feeling of many that the vagrant laws worked injustice, and were intended to work injustice, and that the southern legislation practically restored bondage. Stevens and his followers may have entertained this belief, and at all events they took advantage of it to put the ballot in the hands of the negroes. The alleged object as evidenced in the debates was to enable the freedman to defend himself. It was an interesting experiment, looked at from a safe distance, but apt to prove dangerous to one race or the other.

The act proceeded upon the theory, therefore, that the war had not ended and that no legal governments existed. The first four sections in effect declared a state of war and directed the president to divide the South into military districts, of which Virginia constituted the first, the Carolinas the second, Georgia, Alabama and Florida the third, Mississippi and Arkansas the fourth, and Louisiana and Texas the fifth. There should be assigned to the command of each district an officer of the army not below the rank of brigadier-general and he should have a sufficient military force with which to suppress insurrection, disorder and violence, and to punish or cause to be punished all criminals and disturbers of the public peace. Should military tribunals be appointed, trials must be without delay and no cruel or unusual punishment inflicted. Any military sentence must be endorsed by the officer in command of the district, and no sentence of death should be carried into effect without the approval of the president.

The pith of the act was in section five, which provided for the reconstruction of the electorate of those "rebel States." They could be admitted to representation in Congress only after five prerequisites had been performed. First there should be a convention "elected by the male citizens of said State, twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in

the rebellion or for felony at common law," and even when thus qualified voters must be such as were not excluded from office by the proposed Fourteenth Amendment. This plan, therefore, was an advance not only on the Lincoln policy but also on the act of 1864, and even on the first plan of the Reconstruction Committee, in that it called for negro suffrage. Secondly, the convention so elected should frame a constitution extending the elective franchise to all persons who had the qualifications for electors of delegates. Thirdly, the constitution must be approved by Congress, and fourthly, it must be ratified by a majority of voters having the above qualifications. This would avoid the criticism urged not only against the ordinances of secession but also against the Johnson constitutions of not being submitted to popular vote. Fifthly, not only must the legislatures elected under this constitution adopt the proposed Fourteenth Amendment, but this amendment must become a part of the Federal Constitution.

There was one striking difference between the condition at Lee's surrender and the new military situation now inaugurated. Neither Lincoln nor Johnson had in 1865 recognized the *de facto* governments in the respective States, while now the local governments were recognized to the extent of being declared provisional, "in all respects subject to the paramount authority of the United States, at any time to abolish, modify, control or supersede the same." The district commander might in his discretion allow local civil tribunals to try offenders, but if he organized military commissions all interference under color of State authority was to be null and void.

These provisions were stringent enough besides being complicated by the jack-in-the-box use of the proposed Fourteenth Amendment. This had not yet been adopted and yet the rebel States were required not only to adopt it but were debarred from any advantage from it unless enough other States adopted it to make it effective, and furthermore the disqualifications to be provided by this amendment were

enforced against southern voters even before their State had adopted it. The object was to disfranchise all prominent whites and to enfranchise all negroes. Stevens, Boutwell, Morton and Sumner had at last triumphed.

The work of the Thirty-ninth Congress was done. The ideal of Schurz had been like leaven, and the report which had not convinced the president had convinced Congress and perhaps the country. The whole social problem at the South was to be solved by *peine forte et dure*. Emancipation was the first step, and suffrage must follow,—not directly granted by Congress, because this would clearly be unconstitutional; but the South was to be reduced not only to a Territorial but also to a military basis and kept thus until the States voluntarily conceded negro suffrage. After a season of recuperation from four terrible years of civil war, southern governments were to be stricken down again,—not in war by a commander-in-chief, but in time of peace by a legislature claiming to represent the whole country, and this despite the fact that the executive department, which originally declared the existence of war, had on August 22, 1866, declared it ended. There is a maxim that the test of peace is the undisturbed exercise by the courts of their jurisdiction, and not only had State and Federal courts been opened and regularly held throughout the South, but the Supreme Court also had taken up Southern causes. Of the three departments only the law-making branch was not satisfied, but that branch by northern endorsement had now become paramount. Congress did not realize how little laws can cure of all that human hearts endure, and was to disprove the other half of the poet's phrase, that the ill is small that laws can cause. A panacea was to be sought in legislation, not in evolution.

Congress had declared war upon the executive and might even change the judiciary. It looked to its successor, whose immediate assembling was provided for, to take the remaining steps needed to make the legislature omnipotent. Both at Washington and at the South there was to prevail the policy of Thorough.

CHAPTER VII

THE ATTEMPT TO REMOVE THE PRESIDENT

THE mind of Andrew Johnson made up in intensity what it lacked in breadth. As one said of him, he knew no book except the Constitution, and that he loved with all his soul.

With the rugged aggressiveness which was a part of his nature Johnson made up his mind as to the proper course to be pursued and pursued it unflinchingly. It would have helped him greatly had he made it clear at the time, as investigation now makes it clear, that his plan of restoration of the Southern States was practically identical with that of his lamented predecessor; for he had not only followed the policy of Lincoln, but the advice of the Cabinet which he had inherited. The propriety of announcing this never occurred to Johnson and if it had it is doubtful whether he would have made the declaration. To him the plan was right, and that was enough. On the other hand, if it had been wrong, the authority of Lincoln would not have commended it to him.

To Johnson not less than to Lincoln the existence of the States was essential to the existence of the Union, and as representing the president in this first State reconstruction he probably knew his views better than almost anyone else. While governor of Tennessee he had vigorously protested against the theory that a State could by secession or in any other way relapse into a territory subject to the disposition of Congress. The famous decision of Chief Justice Chase,

somewhat later, that the United States were "an indissoluble Union of indestructible States" was more pithy, but hardly more definite in principle than Johnson's first annual message. In that he said: "States, with proper limitations of power, are essential to the existence of the Constitution of the United States. . . . The perpetuity of the Constitution brings with it the perpetuity of the States; their mutual relation makes us what we are, and in our political system this connection is indissoluble. The whole cannot exist without the parts, nor the parts without the whole. So long as the Constitution of the United States endures, the States will endure; the preservation of the one is the preservation of the other."

He was more consistent than Lincoln in regard to the status of the seceding States. General Sherman claimed that he concluded his convention with General Johnston and recognized the Southern State governments in pursuance of Lincoln's views and plans as recently expressed to him. It is true Lincoln, or Stanton for him, had within a very short time reconsidered the matter, at least in part, but Andrew Johnson never faltered and never recognized anything rebel as valid. He promptly disaffirmed the Sherman-Johnston convention, practically superseded Sherman by Grant, and drove General Johnston to a military surrender like Lee's, without any admission of a civil nature. To Lincoln it was only a metaphysical question whether these States during the Civil War had been in or out of the Union, while to Andrew Johnson it was clear they never had been out. In his first message he declared, "The true theory is that all pretended acts of secession were, from the beginning, null and void. The States cannot commit treason, nor screen the individual citizens who may have committed treason, any more than they can make valid treaties, or engage in lawful commerce with any foreign power. The States attempting to secede placed themselves in a condition where their vitality was impaired, but not extinguished; their functions suspended, but not destroyed."

The result was that when the "loyal nucleus", as Lincoln called it, resumed charge of a State government there was nothing to prevent the State from resuming its normal relations with the Union except the power which each House of Congress possessed of scrutinizing the election of its members. To Johnson this was more ministerial than judicial, related to the regularity of election and not to the creation of an electorate. Congress could not make an electorate for the States, but, as the executive would not recognize the local government until the State established a loyal electorate, the result was the same. The Union was assured and State autonomy preserved. The reverse of previous political convulsions was now presented, for, while the executive advocated local self-government, the legislature was endeavoring to establish a stronger central power.

Nothing could swerve Johnson from his course, and when his earnestness and bad management had alienated Congress, and, on appeal to the country, the "ground-swell" which he had anticipated ran in favor of his opponents, he still did not give up the contest. That "his faith in the people never wavered" was illustrated throughout his life before it was inscribed on his tomb.

Some men in Congress had distrusted him from the beginning because he was a southerner and had been a slaveholder. A few, like Boutwell, even fancied that Johnson was accessory to the death of Lincoln, despite the evidence that he was to have been included in the assassination. To such radicals he early became obnoxious and they sought to bring Congress around to their views. The bill as to the Freedmen's Bureau was with some changes passed over Johnson's veto, and there followed in rapid succession the several reconstruction acts, vetoed and passed over the veto. But what was the use of overriding vetoes, which required a two-thirds' vote of both Houses, when a majority vote of the House could impeach and a two-thirds' vote of the Senate could remove the president from office altogether? In a speech he suggested hanging Stevens and Sumner, and they

reciprocated by advocating his removal from public office forever. To their minds the fact that Johnson stood in the way of their policy of Thorough was sufficient ground for impeachment. So far from giving any help in the reconstruction of the South, it was clear that he required reconstruction himself, and, as that task was utterly futile in a case of so determined a character, the best plan was to get him out of the way. Then the president of the Senate would succeed to the presidency and all would be smooth sailing.

It may be doubted whether even the radicals had definitely in mind the practical abolition of the presidency. They may not have stopped to consider that an executive coming from a legislative body and in his turn subject to impeachment would necessarily register its decrees; that instead of having a government made up of three departments, the one which was generally thought to represent the majesty of the nation as a whole would sink into a mere instrument of the legislature. But if they had thought of this, it would have made no difference. They were fully determined that their policy should be carried out, and carried out in their way, whether the Constitution was preserved or not, whether or not there should be practically a new kind of government set up. So far as they were patriots, and they were in a certain way, according to their own views, the times required a different kind of government. The nation could not flourish under that then existing, and what was needful they proposed to supply. Clearly there was not room in the same administration for Andrew Johnson and men of the character of Sumner and Stevens, and if there was to be any progress at all, one side or the other must be disabled. Johnson was not inclined to play Cromwell and drive out his parliament; while on the other hand Stevens and Sumner were much inclined to imitate the Roundheads and remove the executive at least to the extent of making him *civiliter mortuus*.

The patriotic conspiracy to remove the president by impeachment had to concern itself with two matters before

trial could be had. In any court one has to be particular about the preliminary pleadings in the first place and then about the bias of the court and jury. In this instance the complaint to be made must cover some impeachable offense, and it was considered good politics to insure the necessary two-thirds in the Senate, which would be the court. These two subjects will therefore engage our attention.

James M. Ashley, of Ohio, one of the leaders in the House, was a radical who thought, or at least said he thought, that Johnson had been an accomplice in the assassination of President Lincoln, and so did not hesitate, shortly after the assembling of Congress in December, 1866, to propose a resolution calling for impeachment. There was little to base it on, however, and the resolution was not even adopted.

Meantime the friction between the executive and legislative departments was growing daily more tense and the effect of vetoes and the removal of postmasters and others who were opposed to the president, led Ashley to make a second attempt on January 7, 1867. His resolution this time called for an investigation by the judiciary committee and was proposed in a dramatic manner. He declared that it was his painful but imperative duty to impeach the President of the United States. "I charge him," he said, "with a usurpation of power and violation of law in that he has corruptly used the appointing power; in that he has corruptly used the pardoning power; in that he has corruptly used the veto power; in that he has corruptly disposed of public property of the United States; in that he has corruptly interfered in elections, and committed acts which, in contemplation of the Constitution, are high crimes and misdemeanors."

The committee was "to inquire into the conduct of Andrew Johnson, Vice-President of the United States, discharging the powers and duties of the office of President of the United States", as to whether he "has been guilty of acts which are designed or calculated to overthrow, subvert

or corrupt the Government of the United States or any department or office thereof."

The resolution was adopted. The judiciary committee went to work sifting the president's private life in a manner which would have been unpleasant for some of his accusers. They examined the witnesses of the assassination investigation. Ashley associated with notorious perjurers, visiting jails to extract something to the damage of the president. In order to secure a witness, Conover, he sought and finally secured the pardon of the criminal from the president in order to use his evidence against the very man who issued the pardon.

This investigation consumed considerable time and it was not until the first of June, 1867, that the committee came to a vote. In the meanwhile much had occurred. The Thirty-ninth Congress had given way to the Fortieth. There had come the lengthy consideration of the proposed Tenure of Office bill, in which the Senate made a definite exception of Cabinet officers, and, although this was struck out by the House, the effect of the exception was by many supposed to remain. The supplemental reconstruction acts had also passed, and the president's power for harm was thought to have been much limited. B. F. Butler, who had come in with the new House, had been working on Booth's mutilated diary, but he never found anything to implicate the president. So that finally when the committee did come to a vote, it resolved against impeachment.

By August, 1867, the presence of Secretary Stanton in the Cabinet had become intolerable to the president. Congress had by legislation silenced an obnoxious attorney-general, and the president wished to get rid of the obnoxious war secretary. From the passage of the Tenure of Office Act Stanton showed openly the hostility which he had always felt, but it would seem that an accidental discovery produced the explosion. The hanging of Mrs. Surratt had always been a subject of criticism, and on the trial of her son about this time it was shown that a paper recommending

her to mercy had by Stanton either been kept from the president or so concealed under other papers as to escape Johnson's attention. At all events, Stanton was suspended on August 5th and a week later General Grant was appointed to fill the vacancy *ad interim*. Stanton "yielded to superior force," as he expressed it, and yielded office to the general.

For the time being it would seem as if the effort to impeach President Johnson was abandoned, although Butler had secured the appointment of what was called the Assassination Committee, designed to look further into Lincoln's death. The fall elections ran in favor of the Democrats, however, and a speech of the president upon the subject fanned the embers of hatred against him, so that on November 25th Boutwell reported from the judiciary committee a resolution that Andrew Johnson, President of the United States, be impeached for high crimes and misdemeanors. The president's annual message of December 2d was in his usual forcible style, even "incendiary", according to Sumner. It made matters worse, but when the impeachment report was taken up so little seemed to substantiate the movement that on the 7th the resolution was lost by a vote of 108 to 57. A good many of the young Republicans, Garfield, for instance, voted against it because it seemed that such a trial would be interminable, and the president would go out of office before it was ended. However, Johnson's opponents at last turned down his recommendation that General Hancock be praised for his conduct at the South, and passed instead a resolution condemning the acts of the president.

Meantime the evidence taken by the judiciary committee was on the motion of Stevens referred to the committee on reconstruction, and other events rapidly occurring gave new life to the anti-Johnson movement.

Johnson had never given over his wish to get rid of Stanton. He had appointed Grant *ad interim* on what he claimed to be an explicit agreement that Grant should hold the post and compel Stanton to resort to the courts if he

wished reinstatement. This was not questioned at the time. Grant was no friend of Stanton and thought him intolerable. Schofield even said that on one occasion Grant expressed an intention of resigning from the army if Stanton was not put out of office. The president certainly relied upon Grant's holding the place, or, if he came to a conclusion adverse to the president's contention, upon the general's resigning the place into the president's hands for the appointment of someone else.

In point of fact Grant did nothing of the sort. After the convening of the Senate and the president's report of his action in suspending Stanton, that body refused to concur. Stanton thereupon abruptly went into possession of his office in Grant's absence and Grant returned to his old quarters. The president interpreted the occurrence as showing collusion and had the general before him at a Cabinet meeting. There in a friendly and respectful way, but definitely enough, he made it appear from Grant's own answers what had been the understanding, and the next day a report of the occurrence was spread broadcast through the papers. It led to a correspondence in which Grant seems to admit that he took the office in order to help Stanton and thus circumvent rather than aid his superior.

Being defeated in his attempt to keep Stanton out of office, the president now took the step of removing him and sent in to the Senate the name of Thomas Ewing, of Ohio, as his successor, an unobjectionable choice, meantime appointing Adjutant General Lorenzo Thomas to take charge *ad interim*. Thomas was a soldier of good repute, afraid of nothing, and somewhat flattered at being selected for the position. He called on Stanton and demanded possession. Stanton did not refuse and merely asked time to remove his belongings. Thomas assented and returned to his office.

Stanton notified the Republican leaders at once, and amongst other replies received from Sumner a note out-Cæsaring the *veni, vidi, vici*, for it contained only the one

word "stick"; and Stanton stuck. Indeed the next morning before breakfast Thomas was arrested on complaint of the secretary and taken before the District Supreme Court on the charge of violating the Tenure of Office act. On the way he called on the president, who merely remarked that the matter had now got in the courts, where he wished it. Thomas was released on bail and directed by the president to proceed to carry out the order of the day before. When Thomas returned to take possession he found Stanton surrounded by Republican friends and was himself ordered out of the room. An opera bouffe air was given to the proceedings by Thomas's request to Stanton not to have him arrested again before breakfast; upon which they took a drink together, and the whiskey bottle which they used Stanton characterized as "neutral ground."

The president, however, was disappointed in his attempt to get a ruling of the courts; for when Thomas's bail surrendered him the court refused to consider him in custody for the purpose of *habeas corpus*, and then on application of Stanton discharged Thomas altogether. So ended the suit, but other events were occurring in rapid succession.

When Stanton had regained his office the president instructed Grant not to take orders purporting to be from the president if they came through the Secretary of War unless satisfied that they were genuine. After the papers had represented Grant's actions as improper, the general requested the president to send him written instructions in every instance, inasmuch as everything else was according to his recent experience liable to misconstruction. Then followed a tart correspondence between the general and the president, on which the House committee tried in vain to predicate impeachment charges. Some days later the president had an interview with General Emory as to recent movements of the troops, as he did not care to apply to Stanton, and rumors based on this were circulated about Washington that Johnson was preparing to assemble an army and effect a revolution.

The different acts of the president raised to fever heat the opposition to him. The Senate by a vote of 28 to 6 (with 18 not voting) resolved on February 21st "that under the Constitution and laws of the United States, the President has no power to remove the Secretary of War and designate any other person to perform the duties of that office *ad interim*." Copies of the resolution were at once served on Stanton and the president.

In the House, Covode, of Pennsylvania, on the same day moved the president's impeachment and this was referred to Stevens's committee. Their duty up to that time had related to reconstructing the Southern States; henceforth it included also reconstruction of the presidency. On the 23d the committee reported in favor of impeachment and the report was adopted by a vote of 128 to 47, with 16 Republicans not voting. Appropriate committees were then appointed to notify the Senate and to draw articles of impeachment.

On March 2d these were reported, nine in number.

Article I alleged at some length "that the said Andrew Johnson, President of the United States, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, unmindful of the high duties of his office, of his oath of office, and of the requirements of the Constitution that he should take care that the laws be faithfully executed, did unlawfully, and in violation of the Constitution and laws of the United States, issue an order in writing for the removal of Edwin M. Stanton from the office of Secretary of the Department of War."

Articles II, III and XI proved to be of special importance and should be studied more in detail.

Article II alleged "That on the 21st day of February, in the year of our Lord one thousand eight hundred and sixty-eight, at Washington, in the District of Columbia, said Andrew Johnson, President of the United States, unmindful of the high duties of his office, of his oath of office, and in violation of the Constitution of the United States, and

contrary to the provisions of an Act entitled 'An act regulating the tenure of certain civil offices,' passed March 2, eighteen hundred and sixty-seven, without the advice and consent of the Senate of the United States, said Senate then and there being in session, and without authority of law, did, with intent to violate the Constitution of the United States, and the act aforesaid, issue and deliver to one Lorenzo Thomas a letter of authority in substance as follows, that is to say:

"Executive Mansion,

"WASHINGTON, D. C., February 21, 1868.

"Sir: The Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will immediately enter upon the discharge of the duties pertaining to that office.

"Mr. Stanton has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge.

"Respectfully yours,

"ANDREW JOHNSON.

"To Brevet Major General Lorenzo Thomas,

"Adjutant General U. S. Army, Washington, D. C.

"Then and there being no vacancy in said office of Secretary for the Department of War, whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office."

Article III alleged "That said Andrew Johnson, President of the United States, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did commit and was guilty of a high misdemeanor in office, in this, that without authority of law, while the Senate of the United States was then and there in session, he did appoint one Lorenzo Thomas to be Secretary for the Department of War *ad interim*, without the advice and

consent of the Senate, and with intent to violate the Constitution of the United States, no vacancy having happened in said office of Secretary for the Department of War during the recess of the Senate, and no vacancy existing in said office at the time, and which said appointment so made by said Andrew Johnson of said Lorenzo Thomas, is" as given in the second article.

Articles IV to VIII charged the removal as a conspiracy with Thomas and contrary to the war conspiracy act of July 31, 1861. No. IX charged the interview with Emory as a preparation for using the army unlawfully, and No. X alleged Johnson's speeches, set out in three specifications, as a high misdemeanor in office.

The eleventh, which even played a greater part, was furthered by Stevens and read as follows: "Article XI.—That said Andrew Johnson, President of the United States, unmindful of the high duties of his office, and of his oath of office, and in disregard of the Constitution and laws of the United States, did, heretofore, to wit, on the 18th day of August, A. D. 1866, at the City of Washington, and the District of Columbia, by public speech, declare and affirm, in substance, that the Thirty-Ninth Congress of the United States was not a Congress of the United States authorized by the Constitution to exercise legislative power under the same; but, on the contrary, was a Congress of only part of the States, thereby denying, and intending to deny, that the legislation of said Congress was valid or obligatory upon him, the said Andrew Johnson, except in so far as he saw fit to approve the same, and also thereby denying, and intending to deny, the power of the said Thirty-Ninth Congress to propose amendments to the Constitution of the United States; and, in pursuance of said declaration, the said Andrew Johnson, President of the United States, afterwards, to wit, on the 21st day of February, A. D. 1868, at the City of Washington, in the District of Columbia, did, unlawfully, and in disregard of the requirements of the Constitution, that he should take care that the laws be

faithfully executed, attempt to prevent the execution of an act entitled 'An act regulating the tenure of certain civil offices,' passed March 2, 1867, by unlawfully devising and contriving, and attempting to devise and contrive means by which he should prevent Edwin M. Stanton from forthwith resuming the functions of the office of Secretary for the Department of War, notwithstanding the refusal of the Senate to concur in the suspension theretofore made by said Andrew Johnson of said Edwin M. Stanton from said office of Secretary for the Department of War; and, also, by further unlawfully devising and contriving, and attempting to devise and contrive, means, then and there, to prevent the execution of an act entitled 'An act making appropriations for the support of the army for the fiscal year ending June 30, 1868, and for other purposes,' approved March 2, 1867; and, also, to prevent the execution of an act entitled 'An act to provide for the more efficient government of the rebel States,' passed March 2, 1867, whereby the said Andrew Johnson, President of the United States, did then, to wit, on the 21st day of February, A. D. 1868, at the City of Washington, commit, and was guilty of, a high misdemeanor in office."

Sumner said the pivot of the impeachment was the removal of Stanton. This was true not only because the House deemed such removal a violation of the Tenure of Office act, but more particularly because Stanton was considered the bulwark of the reconstruction policy. As long as the old war secretary was in office, it was felt that the president could not go far in a reactionary movement. If some more pliant tool was substituted, there might be no limit to Johnson's emasculation of the policy upon which Congress was bent.

Stanton himself claimed that he retained his position against the president's wish, not because of a desire for office, not for the salary involved, but only for public considerations of a high character. He said in a letter to Congress that he held on in order to secure the proper execution of the

reconstruction laws. Distasteful as it was to be out of harmony with his colleagues, he declared that the so-called Cabinet was not to his mind analogous to the English ministry, and did not need to act in unison or be in harmony with the president. To Stanton, as to some other Republican leaders, the heads of the departments represented the people rather than the chief executive.

Perhaps no man after Lincoln and Grant was so secure in the confidence of the northern people as the great war secretary. He it was who in the past had put in the field an army of over a million men. To him it was that Congress went for suggestions as to legislation. On him the anxious Lincoln leaned in every hour of defeat or doubt. When he now refused to accede to Johnson's notice of removal, he received letters of approval from eminent and substantial citizens, merchants no less than publicists, William E. Dodge not less than Littell and John W. Draper. The Republican party in its effort at impeachment was aiming not less at the retention of the secretary who was essential to its reconstruction policy than at the removal of the president who opposed it. In the excited condition of the public mind it was felt that the army might be called upon to take an active part. Peace had not existed so long that the old reliance upon military methods was forgotten. Indeed, the president's interview with General Emory was thought to portend an appeal to the army, and he was said to have asked General Grant which side he would take in case of a struggle with Congress. Much was felt to be at stake and among the Republicans Stanton won all the greater confidence by living day and night at the war office, barricaded and defended by a detail of soldiers against the possible use of force by administration adherents.

The make-up of the trial court should engage our attention. The point was made more than once that the Senate in the condition in which it then was hardly came up to the standard required by the Constitution. President Johnson in a number of instances, one of which was now made a ground

of impeachment, spoke of Congress as being incomplete because of the absence of southern representatives, and some lawyers on the same ground alleged the incompetency of the Senate to try the impeachment. The point was not seriously considered, however, and for the purposes of the trial the Senate consisted of fifty-four members, representing twenty-seven States. It being essentially a political offense which was to be tried, and the members being able politicians, there was a great deal of attention paid to the probable bias of the different senators. The Democrats, of course, could be relied upon to vote as a unit against impeachment. There were, on the other hand, forty-two Republicans, a two-thirds' majority, and therefore a sufficient number to convict, provided all voted together. This result had been secured, it will be recalled, by excluding a Democratic senator from New Jersey, and through other providential happenings.

Test votes in the Senate were carefully scrutinized, and the one condemning the president for attempting to remove Stanton was especially relied upon as committing several doubtful senators. It early became known, however, that Fessenden, of Maine, Grimes, of Iowa, and Trumbull, of Illinois, were not to be depended upon to follow party dictation. They were able, ranking high in every respect, and, while not at all favoring the president, were men of independence and not to be swayed by prejudice. Besides these were a number of other senators more or less doubtful. Thus, the two senators from West Virginia, Willey and Van Winkle, sometimes voted one way and sometimes another, and Henderson, of Missouri, seemed to be a man of independence, if not always of courage. A senator from "bleeding Kansas" one would suppose could be relied upon for any Republican measure. Sumner thought it "a very clear case for a Kansas man," but Edmund G. Ross was to imitate the sphinx in his impenetrability. Others demanded consideration, but these were probably the senators in whom most interest centred.

There were two methods of increasing the party strength in the Senate. These were, first, to turn out Democratic senators where Republicans could be secured. This was tried with full success in the case of New Jersey. The second was what Raymond, of New York, in analogy to the English practice, called the creation of new "peers," by the admission of new States. Two opportunities lay ready to hand.

Colorado and Nebraska were mountain, arid Territories, of importance from mining or grazing points of view, but up to this time from no other. Colorado was the more prominent and yet had a population of under 28,000; while in order to entitle it to representation in the lower House 127,000 were requisite. Nevertheless, steps had been taken looking toward the admission of these two Territories as States of the Union. Barring the question of population, there was no special objection to Nebraska except that the proposed constitution contained a limitation of suffrage to the whites. In the case of Colorado, however, there were other objections. Thus, the constitution framed under the Enabling Act of Congress had in 1864 been rejected by a vote of three to one, and in the next summer another convention, not acting under any enabling act, had submitted a constitution which had been adopted by a majority of only 155 in a total vote of 5,895. A proposition to admit Colorado under these circumstances received only 14 votes in the Senate and was thus lost. Sumner was unsparing in his opposition on account of the disfranchisement of the fifty negroes said to be in the proposed new State. His colleague Wilson thought the emergency called for some sacrifice in the matter, and so on April 17, 1866, called up his motion to reconsider, and the bill was passed by a vote, counting pairs, of 25 to 19, despite Sumner's opposition. A few days later it received an even more substantial vote in the House. The senators from the proposed State called on the president and apparently assured him that they were not radicals, but he nevertheless vetoed the bill. Nebraska did not even get so far.

At the winter session Wade reintroduced both the Nebraska and Colorado bills, and had the effrontery to say that he was satisfied the president would now sign them. Sumner raised the old question of white suffrage, and a number of plans were suggested to obviate the difficulty. On taking up the Nebraska matter, Edmunds proposed an amendment making it a condition of admission that there was to be no denial of suffrage on account of color, and as so improved the bill passed by 24 to 15. Wade immediately called up the Colorado measure and the same proceedings were had, Sumner voting for both, Fessenden and Trumbull against them. In the House fear was expressed by Garfield and others that South Carolina and the other Southern States might apply for readmission on the same terms, but Boutwell finally secured harmony by an amendment requiring that the legislature assent to the franchise proviso added by Edmunds. The Senate concurred and thus the bills to admit Nebraska and Colorado went to the president. He promptly vetoed them both, and in the debate over the measure it was brought out that Wade had provided for the assent of the existing Nebraska legislature but that the assent of Colorado was to be given by a legislature to be elected in the future. It turned out that the Colorado House was opposed to statehood on the ground that the population could not afford the expense of State government. Hendricks called attention to this trick, and, although the Nebraska veto was overridden in both Houses, that as to Colorado was not put to a vote. Accordingly Senators Thayer and Tipton, of Nebraska, were admitted to the Senate to reinforce the strong Republican majority.

This amounted to over two-thirds, but Wade would take no chances. Just before midnight on February 28th, near the end of the session, when some senators of whom he was afraid were absent, he proposed to take advantage of this new dispensation of Providence, and, without notice, called up the Colorado bill. He was, however, opposed by several of the Republicans and found that the Senate was not

willing to violate the usual courtesy of waiting on request for a time when other senators could be present. So when the matter came up on March 1st, the vote for overriding the veto was carried only by 29 to 19, not the necessary two-thirds.

The activity of Wade throughout all this was noticeable, and its bad taste was freely commented on by both sides of the chamber. It had been agreed that he was to be president *pro tem.* of the Senate. He was not satisfactory to all. In the House young Blaine was reported to have declared that "there will be no impeachment by this Congress; we would rather have the president than the shallywags of Ben Wade." In regard to presiding in the Senate, even Wade admitted that all knew he was no parliamentarian. But he was believed to be a better partisan than abler men like Fessenden, and on the 4th of March, just before the expiration of the term, Senator Foster made his farewell address as president *pro tem.* and Wade was elected presiding officer. If he had succeeded in his midnight attempt of four days earlier he would have added two more compliant votes to the majority which was supposed to be sure for conviction of the president. His motive was obvious. Benjamin F. Wade in the event of a successful impeachment would become acting president of the United States.

In some respects of as much importance as the court was the character of its presiding officer. Sitting for impeachment, the Senate, according to the Constitution, was presided over by the chief justice, and a great deal of interest was felt by the radicals as to how far the chief justice was a member of the court. If a member, it would seem he would have the right to vote.

Salmon P. Chase was a man of the firmest convictions and had expressly said he would not disclaim the title of radical in principles; but he also said he was conservative as to the methods of enforcing these principles. When he took the oath to discharge his duties as a member of the court of impeachment, he did it with the resolve also to abate no jot

of dignity belonging to the chief justice. Thus, even before entering upon his duties, he had notified the Senate that rules adopted by them before organization of the court of impeachment were illegal, and almost his first step after assuming the chair was to put these rules to a vote again, when they were of course adopted. Similarly he held from the start that he was not simply chairman, but the presiding judge in a court of justice. As such he admitted or refused evidence offered, according as he thought it legal or illegal, leaving the question to the Senate only upon the motion of some senator. This created friction at first and a number of times he was overruled; but the Senate sustained him in his claim to act in the first instance. His conviction was that as occupying the place of vice-president he could vote only in case of a tie, but this he did at the very beginning upon a question of retiring for discussion. The point never came up again, but there was no doubt how he would act. He was resolved to be a presiding justice or not act at all. His conduct was a source of worry to the radicals. He gave dinners which were attended by conservative senators, and at one reception there appeared the Great Impeached himself, Andrew Johnson, who never deigned to enter the Senate chamber during the trial. The house of the chief justice and all his acts were watched and reported to the junta who were managing the impeachment. Chase was aware of all this, nevertheless it did not swerve him a hairbreadth from what he conceived to be his duty.

There was from the very beginning a question as to the scope of impeachment. The article of the Constitution under which the procedure was taken runs as follows:

"The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

"Judgment in cases of impeachment shall not extend further than to the removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law."

Some lawyers contended that impeachment was a political process and for political purposes; that the Senate was not a court and not limited to the ordinary rules of evidence. There was on the other hand the contention that there could be no impeachment unless for an indictable offense, and that the Senate was only a court trying a case, albeit a great case. The practice of the Senate on the subject was not clear. There had been in the history of the United States already five impeachments, one being of a senator and the other four of judges. The last was one of the two successful impeachments, and bore out the theory that it was a political rather than a judicial remedy; for a judge had been removed at the outbreak of the war for making remarks favoring secession. It might be that a decision formed under the influences of that day was not a precedent to be followed; but it might be questioned whether the influences surrounding the trial of President Johnson were not much the same. On the other hand the first trial under the Constitution was that of Judge Chase and in it had been decided that the trial could only be for an offense indictable under the statute or at common law, and that the Senate in its procedure acted as a court of law.

The managers for the House, given in order of the votes they received, were Bingham, Boutwell, Wilson, Butler, Williams, Logan, and Stevens. Of these Boutwell and Butler were to prove the most prominent. Stevens was perhaps the ablest, and probably the most bitter, but he was weighed down by ill health and age, and, beyond inspiring others was to take little part.

On behalf of the president came Henry Stanbery, Benjamin R. Curtis, William M. Evarts, William S. Groesbeck,

and T. R. Nelson. Jeremiah S. Black was also to have appeared, but differences between him and Johnson as to an entirely different matter, and not reflecting upon either, made him think it improper to participate in the case. One cannot but regret the loss of the brilliant invective which Black would have supplied. Stanbery, late attorney-general, had resigned in order to represent the president on this occasion. Evarts, though young, had already acquired great forensic reputation. Groesbeck was comparatively unknown, and Nelson known only as a friend of Johnson from Tennessee. The ability of the counsel for the defense outweighed that for the prosecution, but in a proceeding which was at least as much political as legal, when the court was prejudiced against the accused, there was sufficient ability on the part of the managers of the impeachment to make certain a *cause célèbre*.

The procedure finally adopted was substantially that of an ordinary court of justice. On March 5th Bingham for the House presented and read the articles of impeachment to the Senate, which body from that time was arranged as a court of impeachment. The senators were seated near the desk of the presiding officer, leaving the rest of the chamber to counsel and spectators. Practically little other business was done in either House during the trial. The country's attention was centred upon the Senate chamber.

On the 13th it was agreed that the president should be allowed ten days to prepare an answer, which was duly presented on the 23d, and then next day the managers filed their replication.

Benjamin F. Butler for the managers opened the case by an address on March 30th, and then for five days followed the taking of testimony. This was mainly documentary and raised few issues.

On April 9th Curtis opened for the defense, consuming two days. The taking of testimony for the defense then lasted until the 20th, several points of evidence coming up and causing a great deal of discussion.

From April 22d came the closing arguments, the prosecution and defense as a rule alternating. Boutwell made the principal argument for the managers, Groesbeck and Evarts the arguments for the defense, and then Bingham closed the case.

A peculiarity of the proceeding was that the president was actually tried for a charge different from any named in the articles of impeachment. His real offense consisted in opposing the reconstruction policy of Congress by veto, and then so far as possible ameliorating the condition of affairs at the South by pacific construction of drastic laws. Among the main inducements to impeachment was abuse of Congress in his speeches, his wholesale removal of officials, and the fear that he wished to revolutionize the government by use of the army. But little of all this was charged and none was really insisted on. The real cause of the proceeding, the removal of Stanton, became the gravamen of the charges against the president on the trial: the main contention of the managers being that the president had thereby violated the Tenure-of-office Act. Evidence was introduced upon all the articles, but stress was laid only upon those relating to the removal of Stanton. It is important therefore to observe the wording of the law involved.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is, and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster-General, and the Attorney-General, shall hold their offices respectively for and during the term of the President by whom they may have been

appointed and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

In opening for the prosecution Butler, like the other managers, addressed the chief justice as "Mr. President" and made plain his theory that not only were the senators sitting as a political body rather than a court of justice, but that they should follow their political convictions regardless of the evidence introduced. To his mind it was an instance of *salus populi suprema lex*. He said, "We define an impeachable high crime or misdemeanor to be one in its nature or consequences subversive of some fundamental or essential principle of government or highly prejudicial to the public interest; and this may consist of a violation of the Constitution, of law, of an official oath, or of duty, by an act committed or omitted; or, without violating a positive law, by the abuse of discretionary powers from improper motives or for any improper purpose." He contended that the removal of Stanton was a violation of the Tenure-of-office Act, and pointed out that the president had changed the reading of commissions of officers after the passage of that law, and thus, as well as in reporting to the Senate his reasons for Stanton's removal, had acted upon and recognized that statute. "By whom was Mr. Stanton appointed?" asked he. "By Mr. Lincoln. Whose presidential term was he holding under when the bullet of Booth became the proximate cause of this trial? Was not his appointment in full force at this hour? Had any act of President Johnson up to the twelfth day of August last vitiated or interfered with that appointment? Whose Presidential term is Mr. Johnson now serving out? His own or Mr. Lincoln's? If his own, he is entitled to four years up to the anniversary of the murder, because each Presidential term is four years by the Constitution. . . . If he is serving out the remainder of Mr. Lincoln's term, then his term of office expires on the 4th of March, 1869, if it does not before." As an instance of Johnson's hostility to Congress, he noted that the president had advised Governor Parsons against

having the legislature of Alabama ratify the proposed Fourteenth Amendment.

Butler's manner throughout was one of the features of the trial. It was insulting to the president from first to last. When the defense desired forty days to formulate their answer to the charges, Butler exclaimed that it was preposterous; even the Almighty had required only forty days to destroy everything on earth by the flood. On another occasion Nelson was so overcome by the personal assaults against his client that he not only defied Butler, but practically challenged him; an offense, however, which the Senate finally overlooked.

The defense assumed that the Senate was a court, that the chief justice, whom they addressed by that title, was a member of the court, and that the charges assigned and evidence produced constituted the sole issue. This was the view expressed also by Fessenden, for he, unlike Sumner, considered the president on trial before the Senate and not before the country at large. Judge Curtis in opening for the defense took the position that while it was generally the duty of the president, as of everyone else, to obey a law passed over a veto, this was so only where it was a law affecting people in general; for in such case anyone concerned could test its constitutionality in the courts. On the other hand, where it was a law affecting the president in particular, he had on his part the same right and duty to test it in the courts,—and that this was all the president had undertaken to do: that the designation of General Thomas *ad interim* was no appointment at all.

Objections to evidence came frequently during the testimony for the defense. Sumner, for the purpose of saving time, attempted, but unsuccessfully, to have a rule adopted for the admission of all evidence not clearly frivolous. He said later that he was prepared to vote "guilty of all and infinitely more"; and so it made no difference to him how much was admitted. Apart from the offense charged, it was enough for him that Johnson had promised to be the

Moses of the negro race and had become their Pharaoh. Evarts, while Secretary of the Navy Welles was on the stand, made this announcement:

"We offer to prove that the President at a meeting of the Cabinet while the bill was before him for his approval, laid the Tenure-of-office Bill before the Cabinet for their consideration and advice respecting his approval of the bill, and thereupon the members of the Cabinet then present gave their advice to the President that the bill was unconstitutional and should be returned to Congress with his objections, and that the duty of preparing the message setting forth the objections to the constitutionality of the bill was devolved upon Mr. Seward and Mr. Stanton." The managers objected to the admission of the testimony and the question was argued at length. The chief justice decided "that the testimony is admissible for the purpose of showing the intent with which the President has acted in this transaction," whereupon upon demand of Howard, of Michigan, the question was submitted to the Senate, and by a vote of 29 to 20 the decision of the chief justice was overruled and the testimony excluded.

Evarts offered further "to prove that at the meetings of the Cabinet, at which Mr. Stanton was present, held while the Tenure-of-office Bill was before the President for his approval, the advice of the Cabinet in regard to the same was asked by the President and given by the Cabinet, and thereupon the question whether Mr. Stanton and the other Secretaries who had received their appointment from Mr. Lincoln were within the restrictions upon the President's power of removal from office created by said Act was considered, and the opinion was expressed that the Secretaries appointed by Mr. Lincoln were not within such restrictions." The chief justice held "that this testimony is proper to be taken into consideration by the Senate sitting as a Court of Impeachment," but on the demand of Drake, of Missouri, the question was submitted to the Senate and by a vote of 26 to 22 the chief justice was again overruled.

On behalf of the President, Evarts then offered "to prove that at the Cabinet meetings between the passage of the Tenure-of-office Act and the order of the 21st of February, 1868, for the removal of Mr. Stanton, upon occasions when the condition of the public service was affected by the operation of that bill and it came up for consideration and advice by the Cabinet, it was considered by the President and the Cabinet that a proper regard for the public service made it desirable that upon some proper case a judicial determination of the constitutionality of the law should be obtained." The managers again objected, and the chief justice submitted the question to the Senate, and by a vote of 30 to 19 the testimony was excluded. Welles was to be the first witness to substantiate the offer of proof which the President's counsel had made; but it was understood that he was to be corroborated by other members of the Cabinet.

From April 22d to the 6th day of May came the closing arguments. Of these the address of Boutwell for the managers was striking in the highest degree. It sometimes rose to eloquence, but, as Evarts showed, sometimes sank to absurdity. The principle upon which he most relied was that the legislative department was practically supreme over the executive and judicial; that it not only prescribed the manner in which the others could act, but could in many respects change them. This claim of supremacy was really the mainspring of the accusation, more plainly seen now perhaps than at the time. Boutwell made a forcible use of the famous painting by Carpenter of the Signing of the Emancipation Proclamation, and more than intimated that Providence had guided the hand of the painter in placing upon the right of that picture the great figures of Chase and Stanton, who were thus predestined to stand together, while upon the left were those who had since aided Johnson and thus fallen from grace. Boutwell courteously referred to the array of lawyers on the other side as attorneys whose intellects had been sharpened, not enlarged, by practice; but it was an astronomical figure which crowned his work.

He said that in the heavens near the Southern Cross was a region where no stars could be found, where all was dark and gloomy, and popularly known as the Hole in the Sky. Such had been the enormity of Johnson's offense that the earth would spurn him and no fit place could be found for him except that cold and dreary spot.

Stevens was too feeble to participate in the argument and another read his address. He accused the president of "misprision of official perjury",—an offense which if indefinite was at least high sounding. Williams was the most ornate and possibly the most skilful of the managers. He heaped scorn upon the obsequious Cabinet of the president, which he declared to be an excrescence, a fungus born of decay.

Boutwell's Hole in the Sky amused Evarts, who pictured that manager carrying Andrew Johnson on his broad back through Boötes and other constellations to that dreadful, vacant place,—*sic itur ad astral* Evarts's legal argument was admirable and often rose to eloquence. He showed that the Tenure-of-office Act was not intended to embrace Cabinet officers, and, even if it had been, in point of fact it did not include Stanton because by its very phraseology it was limited to officers who had been appointed by the removing president.

Evarts argued that Stanton had not been appointed by Johnson but had been removed by him, in fact had not been reappointed during Lincoln's second term, and so was really but a tenant at will of the office. Evarts alleged that the "tremendous enginery of impeachment" was not proper in a case which amounted at worst only to mistaken judgment on the part of the president. It was certainly an open question as to the meaning of the Tenure-of-office Act, and taking steps to get the question before the courts was not impeachable. "One does not," he said, "rig up a trip hammer to crack a walnut." If the Senate was not a court, if it was not an altar of justice, it could only be an altar of sacrifice.

Stanbery was able to appear only for a short while and asked the senators, if an adverse verdict had already been made up, not to commit a dishonorable act there in the Senate chamber, with its many memories, and none nobler than those of Andrew Johnson battling for the Union against seceding colleagues, but to take themselves to some subterranean recess of the capitol and there perform their act of immolation.

Probably the greatest surprise of the trial was Groesbeck. He was known as a Democrat from Cincinnati, a thinking, retiring man, but as he described the acts of the president, their grounds and motives, he proved himself in force and beauty of diction a master equally of law and oratory. Even Stevens bore tribute to him as resembling a Roman senator, yet as one pleading his own virtues rather than any which could be truthfully alleged of his client.

The case was closed by Bingham, whose remarks were rather political than legal, delivered with an energy which impressed his hearers and delighted the spectators. Such was the applause that it was necessary to clear the galleries. The Republican leaders were delighted, and sent telegrams in different directions praising the strength of the address.

They not only watched all doubtful senators during the trial, but brought every possible influence to bear upon them. Willey was an ardent Methodist and so the Methodist Conference at Chicago prayed God that the senators be kept from error, and the colored Methodist Conference at Washington more directly prayed the Senate for the conviction of the president. The junta secured letters and telegrams to doubtful senators from their constituents, and even Holden, whom Johnson had made governor of North Carolina, wired to strike his benefactor from his seat. Not content with telegrams, the Missouri delegation called on Henderson and urged on him the propriety of voting for conviction. Similar influences were brought to bear upon the West Virginia senators, and also in particular upon Ross, of Kansas. Telegrams, as one signed "D. R. Anthony and

a thousand others", poured in to the same effect. Ross finally wired back to "Anthony and a thousand others" that he proposed to do impartial justice according to his oath, and received a reply that Kansas "repudiated him as she did all perjurers and skunks." Even Vinnie Ream, the sculptress, whose company he seemed to like, was besieged on his account; but he remained to the close of the trial an uncertain quantity.

The president on his part, or at least Evarts for him, was not inactive. Friends of Stanton have had a great deal to say about an agreement with certain Republican senators, whereby immediately after the evidence was closed Evarts gave the assurance that General Schofield would be nominated in the place of Stanton. According to them this was done with a view of getting these senators to vote for acquittal, which otherwise they would not do because they thought that the president would put some tool of his own in the office of secretary of war. That there was any impropriety in declaring that the successor of Stanton would be a man of the first rank would be hard to prove, and, if it were so, the impropriety was equally shared by the senators approached. The seven Republicans concerned were Fessenden, of Maine, Fowler, of Tennessee, Grimes, of Iowa, Henderson, of Missouri, Ross, of Kansas, Trumbull, of Illinois, and Van Winkle, of West Virginia. It would be difficult to point an accusing finger at any of these men. Fessenden, Grimes and Trumbull were eminent, Henderson only less so, while Fowler, Ross and Van Winkle, if approachable at all, would hardly be moved by the prospect of having another good secretary of war. However, the impeachment managers now undertook an inquisition for bribery and corruption, seizing telegrams and otherwise investigating the conduct of the president and of the senators. They even encroached upon the dignity of the Senate by an attempt to call Henderson before them. He declined to go and laid the matter before the Senate,—a procedure which Sumner characterized as setting up a technicality which was

out of place in such a case, for justice should have free course. The point was important, but the end of the trial made decision unnecessary. Although pilloried by partisan anger at the time, it cannot be questioned that these seven men proved themselves worthy of the highest traditions of the Senate.

The original charges were after the argument felt by the managers to be weak, and so they secured a decision first upon Article XI, which referred to Johnson's opposition to reconstruction and might attract senators doubtful as to the illegality of Stanton's removal alone. The vote was taken ten days after the close of argument and was watched by a crowded house. As the doubtful senators fell into line one way or the other the tension was great, reaching its utmost when the name of Senator Ross, of Kansas, was called. As he went, so went the result, for there was no other then who could be relied upon to make up the two-thirds. He rose and distinctly voted "not guilty." This practically ended the trial. The chief justice called the other names and they voted as was expected; but the result was foregone. Thirty-five for conviction and nineteen opposed might be enough to satisfy Sumner that the president was morally condemned, but the vote was also enough to satisfy the American people not less than the president that he was fully acquitted.

The prosecution secured another adjournment for ten days with the view of working further upon the doubtful senators. It was possible that some would vote differently upon other articles, but the result of the vote on Articles II and III was precisely the same. There was no use proceeding on the remainder. The chief justice entered up a judgment of acquittal upon the articles passed on, and then the court of impeachment adjourned *sine die*.

The trial had little of the spectacular, and yet was dramatic in its simplicity. A chief magistrate was on trial accused of high crimes and misdemeanors. The case was conducted much as any other in a court of justice and the

judgment was as prompt as it was decisive. The impeachment contrasted strongly with the equally celebrated trial of Warren Hastings, which also resulted in acquittal. Even Macaulay, however, could not have pictured the trial of Andrew Johnson in striking colors. The Senate chamber could not compare in historic memories with the oaken hall of William Rufus. Butler, Boutwell, Evarts, Groesbeck could not rank with Burke and Sheridan; but at least the American impeachment was conducted more as a trial should be. The articles against Warren Hastings, drawn by Burke, were spread over five hundred pages, while those against Andrew Johnson were contained in less than two pages of the *Congressional Globe*. The opening speech of Burke was delivered two years after the articles were presented; that of Butler within the same month. The trial of Hastings lasted seven years; that of Andrew Johnson less than two months. The pageantry was missing at Washington, and Johnson, unlike Hastings, never entered the judicial chamber. Of the one hundred and sixty peers who attended the gorgeous opening ceremonies at Westminster, one-third died before the final judgment and of those who survived there voted only twenty-nine; while in the American trial every senator voted, some being brought in from sick beds. Hastings, a private citizen, spent his fortune upon the expenses of the trial, and was not only an old, but a broken man, at its conclusion. President Johnson continued to perform his duties during the trial as afterward.

Stanton claimed to have dismissed the prosecution against Thomas because he considered Thomas only an agent, and the matter therefore as merged in the greater trial of Andrew Johnson, the principal, and the secretary had written the president "that public considerations of a high character, which alone had induced him to continue at the head of the department, constrained him not to relinquish the office of Secretary of War." The acquittal of the president, practically on the ground that the office was not protected

by the Tenure-of-office Act, removed these high considerations, and Stanton thereupon relinquished charge of the war department and left its archives in care of General Townsend, subject to the president's directions. The nomination of Schofield coming before the Senate, that body consented to the appointment, but with a preamble reciting the vacancy as due not to the removal of Stanton but to his relinquishment of the office. The Senate refused to confirm the nomination of Stanbery as attorney-general, but agreed to that of Evarts. The latter had been more active in the trial, but the former had incurred the hostility of the Senate by his reconstruction rulings. With these attempts to preserve its own dignity the Senate rested and for the brief remainder of his term President Johnson was unmolested.

He had become a man without a party, for, while the Republicans disowned him, the Democrats were not prepared to claim him. He said afterwards that it was as at Rome when there were parties for all leaders but none for the republic. But during all the troubled time of dispute with Stanton and the impeachment, President Johnson had continued his course calmly, attending to current business, vetoing what he deemed improper measures, advising an unheeding Congress, and directing the course of reconstruction at the South in accordance with the laws passed over his veto.

With the end of the war the pendulum had swung backward from the time when President Lincoln could ignore inconvenient bills and pretensions of Congress. Under Johnson it seemed as if the legislative department was to be supreme, as Butler claimed, as if America was to go back to the method of the French revolutionary assemblies and act by committees rather than by a coördinate executive. But this tendency ended with the attempt at impeachment. The trial restored to President Johnson what he had lost by his speeches, and in the judgment of posterity he deserves well of his country for preserving to the best of his ability the independence of the executive office.

And yet it cannot be said that Johnson brought only good to his country, for his firmness was disastrous to one section. The eleventh article charged a real injury wrought by the president, even if only indirectly. Removing Stanton was at most a technical wrong and abusing Congress could hardly be taken seriously except as a political crime. Congress having made up its mind that a certain course should be pursued, everything which contravened this course was an impediment to reconstruction and *pro tanto* thwarted the will of the country as expressed by Congress and could ultimately bring only disaster. Johnson was never willing to admit that Congress represented the country. His abiding faith in the people led him to assert that it did not. When the acts were passed over his veto, however, he executed them, although ameliorating them according to the advice of his eminent attorney-general.

But Congress was right in thinking that he nullified the reconstruction policy, although it was done in a manner which neither he nor they realized. His influence was ultimately more successful in the spirit aroused among the Southern whites than in any acts of opposition to the faithful execution of the law. If the President of the United States could think that the people were back of him and not back of Congress, it was natural that the people in the Southern States should adopt his views. The Southern people knew that they were defeated in their struggle for independence, but they could readily believe, when assured by the President of the United States, that the Northern people were disposed to carry out the presidential rather than the congressional plan of restoration, and they would naturally act accordingly. Before they found out that the Northern people were really behind Congress, the injury had been done. Believing that the policy would in some way be changed, the Southerners retained their feeling and expressed sometimes in characteristically hot-headed ways their conviction that the Johnson governments were the legitimate governments and would ultimately be restored.

To the president must be ascribed one great double result in reconstruction. The Southern people did not at first recognize the fact that the North was in earnest in enforcing negro suffrage and so did not take the steps necessary themselves to control the proposed negro vote. The idea was revolting and absolutely ludicrous that black men, alien in race and feeling, ignorant of everything except manual labor, should be made voters, and too many whites allowed the newly enfranchised class to drift into unprincipled control. The result was to be disastrous, and it can be ascribed only to President Johnson. He acted honestly and faithfully; but the opposition which he championed resulted in harder terms and harsher administration for the people whom he tried to aid. In secession the South got in the way of a Union sentiment and civilized condemnation of slavery, and fell before them in a vain if heroic struggle. In reconstruction the South was led against an awakened national consciousness which would reform the Constitution to make a nation out of a Federal union of States. In the one, Johnson opposed his native section. In the other, he led it. In both it failed, and it suffered more from his friendship than from his enmity. He was right from his point of view, and yet the Fourteenth Amendment, passed by bigots instinct with nationality, was to do more for his country than his defeat of their attempt to impeach him.

CHAPTER VIII

A STUDY IN RACE TENDENCIES

RESTORATION of the Union along the lines favored by Lincoln had fallen through. This was partly from distrust by Congress of his successor, partly to the feeling, which went back to Lincoln's time, that severer terms should be exacted of the South and to this end that changes should be made in the fundamental law. What had long been called Reconstruction was now to be put in force. In a proper sense it concerned the whole Union, North and South; but we shall be able to treat of the process North in much shorter space than the varied study south of Mason and Dixon's Line. At the South it was to be a reconstruction of the eleven States "lately in rebellion", and to affect them on their social and industrial sides not less than in their ecclesiastical and political relations. It must be remembered, also, that there were two races concerned and a vast amount of territory. So that in order to understand the conditions and the process it is of the first importance to make some study of the stage and the actors of the coming drama.

It will be convenient to examine first the ideals and tendencies of the negroes, and then those of the whites, and see how each race looked upon the problem before it. Only after such a comparison can we understand the actions of both in the solution of it.

Sumner and Stevens not infrequently spoke of Johnson's attempt to rehabilitate the South as whitewashing the rebels.

It may be questioned whether their policy on the subject of the negro was not one of whitewashing the negroes, of thinking and speaking of the black man as differing from the white only in the color of his skin. It may be doubted whether many of the leaders of thought really had this idea; but there was no doubt that the mass of the voters at the North did entertain it. To them the teachings of anthropology were yet sealed. To their mind every defect of the negro was due to slavery. That was the cause of all his ills, of all his degradation, and, with that removed and education supplied, he would forthwith show himself the equal of the Anglo-Saxon in all the walks of life. A people who had been faithful slaves for centuries, who had not even taken advantage of the war waged on their account to throw off the yoke, were now by one stroke to be made into citizens competent to wield the ballot.

No race up to that time had become civilized except by adopting elements of progress from some other and developing them in its own way. Ordinarily civilization is fixed by the highest type of the dominant class, for the others gradually approximate it; but here was to be an experiment unlike any elsewhere in history, that of forcing the negroes into civilization. The Indians had never responded to this treatment, but it was confidently believed at the North and confidently accepted by the negro himself that it was the true procedure. Therefore to understand the future outlook, we must understand the past of the black race.

An observant British traveller through the Southern States shortly after the Civil War wrote that the negroes seemed to be of many tribes, an observation containing much truth. While interstate migration and the slave trade had mixed the tribes and interbreeding obscured their origins, the negroes had come from different parts of Africa. Nevertheless, as a rule it may be said that they were from that portion of the Dark Continent between what is now Liberia on the north and the mouth of the Congo on the south, from the coast of that great Gulf of Guinea, which looks as if it

were made by the retreating at some remote epoch of South America from a union with Africa. It would seem as if the negro in his forced migrations was ultimately confined to the corresponding part of America, the Mexican Gulf lands, extending from the United States down to Brazil and the Caribbean Coast. He came, therefore, to a climate differing from his own in greater mildness, and found natural products somewhat the same in his two homes.

The African coast was known to explorers from an early date, and in the division of the newly discovered world by Pope Alexander VI it fell to the Portuguese, as America did to the Spanish. Discoveries and explorations gave way to trade and commerce, and the Portuguese early established stations on the western coast. To these were brought native products, especially ivory, palm oil, dye woods and the like, and, at a time when slavery was almost the normal condition of much of mankind, it was natural that the slave trade should also develop. It was not new to the people of the coast, for slavery was the usual result among them of unsuccessful war. The trade had, moreover, been common in the interior for ages, carried on by Mohammedan caravans from the north. At first it was sporadic on the coast, but with the growth of Spanish colonies in America it became a system, the prize of European diplomacy, and ultimately in 1713, by the Asiento treaty, the property of England. Slavery was introduced into English America from the Spanish West Indies, but the trade grew to large proportions between the English colonies and Africa itself.

The slave trade had long been regarded as legitimate by the natives, and one of the greatest obstacles to its suppression was the opposition of the tribes themselves. It covered in historic times the whole coast from Sierra Leone down to Ambriz and even further south. At first the trade had some semblance of legality, and the leading navies of the world owed much to the men trained on slavers, and to the models if not the very ships themselves. Of no nation was this truer than of the United States and particularly

of New England. Paul Jones in the Revolution and the privateers of the second war with England knew almost as much of African as of American seas. Later the trade degenerated into violence of the worst kind on shore and land. At the same time, the voyage was not as a rule so bad as it has been painted, for it was based on desire for gain, not on feelings of cruelty; and these human cattle must be reasonably cared for or they would be an expense and a loss. There was always, however, a crying need of police supervision, and ultimately the nations of the world agreed on the suppression of the slave trade, and the navies, particularly of England, France, and the United States, united in the work.

So far as North America is concerned, the majority of the negroes perhaps came from what is known as the district whose most enterprising kingdoms were Ashantee and Dahomey. These peoples were slave traders rather than slaves, and brought their human wares to the coast for shipment. In the long run the British outdid all other slaver nations, and it was only justice that England should be the country first and most active in the suppression of the trade. Even in the time of the American missionary, J. Leighton Wilson, the activity of the British navy confined the business to the delta of the Niger and to the mouth of the Congo River. It was a paper of Dr. Wilson's that largely determined Palmerston and the British nation to persevere in their work. The United States at first declined to allow other nations to arrest vessels under the American flag, but scruple for state's rights on the ocean was finally overcome and the search made efficient.

The tribes were under various chiefs or kings, and differed in language, customs and somewhat in appearance. The fiercer people were in Guinea, the more amiable along the Congo coast, but much they had in common. As to social life, we may say that polygamy universally prevailed, and even the women looked down on a man who could have only one wife. To some extent, however, it meant slavery

rather than polygamy in the ordinary sense of the word, as when a king was allowed thirty-three hundred and thirty-three wives, for these were really female slaves. Family life, as is usual in polygamy, was almost unknown, except that the affection of children for the mother was marked, continuing late in life. Some tribes even had women soldiers, and they were more effective than men, because better disciplined and physically stronger. Ordinarily, however, the women were the tillers of the soil and the beasts of burden, the fauna of the country furnishing beasts of prey rather than domestic animals. The houses were generally of conical shape, made of posts set in the ground, sometimes twisted with bamboo, sometimes filled in with clay and the like. The villages occasionally had wide streets, and at other times were merely irregular collections of dwellings. Clothing was simple, and in the heat of the climate was scarcely needed. There was, as often among savages, desire for bright colors, and cast-off clothing of Europeans, particularly uniforms, was much sought after. Love of show and noise were common. Among tribes toward the south the people were neat, and bathing was frequent, but not universal, and the peculiar odor of the negroes was brought with them from Africa.

As to government, the chief or king was practically master of the lives of his subjects, although himself limited by customs even more absolute than himself. A characteristic of the men was love of war and cruelty in all its forms. Common ornamentation about public places was derived from skulls and bones, although cruelty showed itself rather in the quantity of blood shed than in torture of the victims. Cannibalism was frequently practised, but it gradually became less in historic times, and slavery was an amelioration of the original usages of war. As one expressed it, "meat is meat wherever it comes from." When a king died, numbers of his subjects were sacrificed, and "wetting the grave" of ordinary men by pouring human blood upon it was the usual method of placating the departed. The dead

were worshipped, and ghosts, witches and witchcraft greatly dreaded. The fear of ancestors, which among classic nations became modified into a worship of household gods, among the negroes retained its old character, while the religion was Fetishism and Voodooism. As often happens in early civilization, and unfortunately in later civilization also, religion and morality do not go together. The Africans, as St. Paul says of the Cretans, were given to lying, and stealing was an accomplishment, if not a necessity among them. They were also expert in double-facedness, and would pretend one thing to a white man and go off and do something entirely different. In a variant sense from St. Paul's, they were all things to all men. They became expert in the vices of Europeans, particularly drinking, and close observation leaves it in doubt whether the liquor traffic has not claimed more victims in Africa than even the slave trade, which at one time rose to one hundred thousand a year.

The main industry was agriculture, although since the Europeans came the negroes in many places were expert traders, not only in slaves, but in gold, ivory, and particularly palm oil. There was a dry and a wet season, and grain grew readily; rice from the beginning and maize afterward were the usual diet of the natives. In some places cocoanuts, plantains, and yams were also common, to which on the coast must be added fish. Agriculture was effected with a rough kind of hoe, and working in iron and other metals was not unusual. Weaving was also known and a cloth made which would do no discredit to western civilization.

Contact with the outside world was limited, but it was not entirely confined to slave traders. England in 1787 established Sierra Leone as a place of refuge for freed slaves, and far to the east in Cape Coast Castle had a formidable point of control over the trade and tribes of Guinea. All along were dotted forts and stations of Europeans, hundreds in all, perverted sometimes into slave barracoons, especially by the Portuguese, but when in the middle of the nineteenth

century slavery had become piracy such posts were fewer. Among the last might be mentioned those of Don Pedro Blanco on the Gallinas River and of Da Souza at Whydah nearer the Niger, where these men lived as princes, surrounded by barbaric splendor and voluptuousness such as could be furnished only by the arts and vices of Africa and Europe combined. In the nineteenth century at least an occasional missionary taught the Africans that cruelty and even trade were not the sole instincts of Anglo-Saxons. Some of the missionaries were negroes, sent out by the white churches in order to appeal more strongly to the Africans; of these Lott Cary at Liberia proved that a negro Baptist could also make an efficient commander. Among the white missionaries might be mentioned John Leighton Wilson, of South Carolina, long stationed at Cape Palmas and the Gaboon, whose religious teachings and scientific observations ranked him high among the benefactors of Africa. He was a slaveholder who loved his slaves and gave his life to what he called their "injured continent." His work in the American Board of Foreign Missions was notable, and on the formation of the southern church he carried into its mission fields the same ability and earnestness.

One of the most interesting humanitarian experiments, copied somewhat from Sierra Leone, was the foundation of Liberia by the Colonization Society of the United States, an organization established largely by Southern leaders in 1816. Liberia was designed at first as a place of refuge for freed negroes, who were regarded as something not to be assimilated by the American body politic, and it was hoped that they would return to Africa, as missionaries of civilization. With it was afterwards combined the colonies of the Maryland and Mississippi companies and in 1847 Liberia declared its independence in order to assure respect from other nations. In its double mission, however, it did not prove successful, for the reason that the freedmen of America were two or three generations removed from Africa and few had any desire to go back, while on the other hand

those who did go met at first with opposition from the tribes of the neighborhood. At the close of the Civil War there was a general feeling in America that colonization should be resorted to, but it proved an undertaking too great for the country, especially as the freedmen did not wish to go. Liberia made progress, for some of its rulers were energetic. The republic extended its bounds, but the native tribes under its protection vastly outnumbered the few citizens. It never fully attracted the negroes of either continent, and its laws prohibited white men from holding land or office. It made little impress on Africa, and its own government and financial management were bad.

Such was the negro in his native home. In the Southern States of the Union he gradually forgot the differing tongues brought from Africa and assimilated the language and somewhat the manners of his master. Few African words survived, although customs and modes of thought persisted. Education was not generally allowed, especially after the rise of abolitionism, but American slavery has been declared to be the mildest the world has ever seen. African fierceness disappeared in the course of one or two generations and was instead represented by a docility and attachment to masters hardly exceeded by the brute creation. Family life under the conditions of slavery hardly improved and the separation of kindred due to sale caused the retention to a very appreciable extent of the polygamous habits of Africa. At the same time, the white people in many places encouraged the spirit of the family relation and marriage was frequently celebrated by Christian ministers. Religion remained largely Voodooism, somewhat tempered with the forms of Christianity, but the dread of ghosts survived, and the old fanaticism was represented by the ecstasies and trances of negro worship. At the best, religion appealed to their emotions rather than to their intellect. Of course there was no political organization, for they knew only their individual masters, and police control was exercised not so much by sheriffs, as among the whites, as by neighborhood patrols, who by

night visited quarters and cabins and enforced order. These patrols were connected in one way or another with the general militia system and became one of the institutions of the country.

The slave trade was never entirely extinguished, despite the efforts of the American government. Occasionally a cargo was run into a southern port from the Spanish West Indies, and once in a great while swift Yankee vessels secretly brought one direct from Africa. Thus the *Wanderer* made several voyages and became finally a prize in the Civil War. One of the last cargoes of slaves brought into the United States was by the *Clotilde*, which entered Mobile just before the war and successfully landed negroes, some of whom still remain. From the time of Judge Story the Federal courts were active in prosecuting offenders and even the developments in the *Wanderer* case showed that New England participated in the trade to an extent which was not realized at the North. The domestic slave trade was unrestricted and Virginia became a kind of slave stock farm for the South. It is said that sometimes forty thousand slaves were distributed thence every year, probably half coastwise from Alexandria and Norfolk, and the rest by foot to the Southwest. The practical extinction of foreign importations left the old stock to become more and more Americanized. It is true the system did not admit of general education, or permit the assemblage of slaves in large bodies outside the respective plantations; but the same interest in them which sprang up in distant hearts and led to ill-judged movements in the North, permeated Southerners also and led generally to a kindly feeling and treatment. In the relations between the average master and slave, Christianity showed its universal application, knowing neither bond nor free. The church took a special interest, and through the pulpit inculcated the duties which the master owed the slave. Not only were missionaries sent to Africa, but presbyteries and other ecclesiastical bodies had missionaries among the negroes at home, sometimes white

and sometimes in exceptional cases negroes. Master and slave often worshipped together, under the ministrations of the same pastor, the gallery or other portions of the church being set apart for the negroes. Legislation also was strict, and, although sometimes it was necessary to invoke the law, public opinion was generally sufficient. Cruelty was the exception, although it existed, as it always will exist between people in different ranks of life and of different temperaments.

Particularly kindly were the relations of the whites to the house servants, the nurses, cooks, drivers and others who were in daily contact with the masters. They were thought of and spoken of as members of the family, and a separation between them was by all felt as keenly as separation of members of a natural family. These attachments were of a depth which outsiders could hardly appreciate, and in a modified form even survived Reconstruction. Fanny Kemble was to complain that on the side of the whites it was the attachment a man would feel for a pet dog, and a negro was sometimes compared to an animal rather than a person; but the fact is that speech did not fully compass the institution, and neither legally nor in practice were negroes regarded otherwise than as persons. They were called servants, not slaves, and this docile race became no more attached to their white masters than their white masters to them. No greater cause for social ostracism existed than being an overseer or slave driver, unless it was being a cruel master. With many, and these the best, even war and the prospect of freedom could not separate the servants from their owners. The Confederate did not hesitate to leave his family in Georgia or Louisiana and fight in the army of Virginia, knowing that the women, children and grandfathers could manage the farms, and that the slaves themselves would be faithful and protect them. When the ravages of war came and everything was broken up, the story was different, but for this the negro was hardly to blame. Even then the bewildered African but changed

his master, for he looked upon the "Yankee soldier" and the Freedmen's Bureau, to use the word now coming into use, as new "bosses."

While exhibiting a pleasant side of the negro's character, such devotion was not unexpected, nor was it unprecedented. The same disposition had been shown even as far back as the American Revolution and the War of 1812, for then, too, the negroes as a rule were faithful to their old ties, although much nearer the time of enslavement, and although many of them could remember the voyage from Africa. It is a striking fact that of the negro refugees of those early days, some taken to Nova Scotia formed afterward the nucleus of the free colony of Sierra Leone, and it is hardly less striking that it was others, congregated in London, making a vicious and unassimilable class even in cosmopolitan England, who attracted the attention of Granville Sharp and gave rise to his protest that Right must prevail, whatever its consequences. This theory put in practice led to the English abolition of slavery.

In the Southern States of America the African had become so modified that it might well be claimed slavery had been to him a school and a blessing. As a rule the work was not oppressive, for it did not pay to keep the negroes in bad condition, and feelings of humanity and often of affection accompanied the relation. The negro quarters were made up of pioneer log cabins instead of the African round huts, and were more comfortable, and their condition depended largely upon the neatness of the occupants themselves. They became a kindly race, and if they were left to themselves there was little danger of trouble of any kind.

Nevertheless, there were uprisings of blacks which although isolated made the whites uneasy, particularly after the rise of abolitionism in the North showed that some white men there would go any length to secure freedom for the slaves. In 1800, there was expectation of a rising among the negroes about Richmond. The movement was led by a slave named Gabriel, and the plan seems to have been to

fall upon the arsenal and powder house and take possession of the city. Their fellow-negroes and the friends of humanity throughout the continent were to be summoned to aid in the emancipation of the race. If they failed, at least they could retreat to the mountains, for Gabriel, like John Brown afterwards, thought the Virginia hills had been created from the foundation of the world as a place of refuge for fugitive slaves. The force was to have consisted of eleven hundred men in three divisions, but strong guards were provided by the whites and the attempt was suppressed before coming well to a head.

In 1822, an insurrection occurred near Charleston, where the negroes were even more numerous in proportion than about Richmond. The leader was Denmark Vesey, whose plan was known to thousands, from whom, however, he prudently tried to exclude household servants. Six hundred slaves were enlisted, but one acted without authority and revealed the secret to a house servant. The attempt was suppressed, but so well was the secret kept that only fifteen men were seized.

These had been social revolts and now came one which was more formidable because based to some extent upon the fanatical side of negro nature. Nat Turner had a cruel master, and from his mother received the belief that he was to be the Moses of his race. The old race doctrines vied with scriptural prophecy to make an able negro a religious enthusiast. Turner never laughed, he was unsocial, and finally saw visions, frowned upon the ordinary religious services, and became looked upon as one inspired. In 1831, he with a few others began an outbreak in Southampton County not far from the Dismal Swamp. Turner broke into his master's house and struck him with a hatchet, and a co-conspirator finished the work with a blow of an ax. Those engaged in the revolt were estimated from a few dozen to several hundred, but first and last some fifty-seven white people were murdered by these enthusiasts. The military were called on, some of the party captured and the rest

driven to the swamps, where Turner himself was finally captured. He bore his imprisonment like the fanatic he was. He never regretted what he had done except that he had not done more and his face when excited was fiendish. With the blood of helpless women and children upon his clothing, he could raise his manacled hands to heaven, his black face aglow with enthusiasm. On the trial he pleaded not guilty because he had heard the spirits and believed that God sent him to free his people. He was executed in April, 1831, during a thunderstorm which the negroes ever afterward claimed had been predicted by Turner himself.

These uprisings were separated by many years but they were never forgotten and gave rise to the attempt of John Brown in 1859. This ended in a fiasco, and there was slight reason to suppose that the whole negro race could have been enlisted. Of this, however, no one could be certain, and every one was uneasy. If the emotional side of the negro race could be interested, Turner and his predecessors showed that the old bloodthirstiness still existed below the levity and carelessness of the usual slave's life. Docility had apparently become the rule, but it had exceptions and the old spirit might return.

The strict oversight exercised over the slaves practically prevented the rise of leaders. The work of the abolition societies was little in the South, but it was now to make discontented slaves seek their freedom by flight to the North. They were aided in different ways by abolition agents and sympathizers called the Underground Railroad System. In this way went North Fred Douglass, a man of exceptional ability. He was to become looked upon as a leader of his race, but his idea of the future was to make the negro an American, with all the rights and privileges of the whites. This he taught and wrote for many years and this became the ideal of the negroes so far as they could be influenced from the North.

Under slavery, then, despite occasional hardships and cruelty, the negroes were tending to the position of serfdom

rather than personal slavery, to becoming fixtures on the soil rather than chattels at large. In Louisiana they were real estate. There were slaves in the cities, but they generally worked out and not under the masters; and even there they were approximating ever closer to emancipation. With enforced emancipation came a complete change. The first tendency was to wander away from the old plantations, and thus unfortunately wander away from a settled home and from settled labor. They had, rightly or wrongly, been denied education, for the belief was universal that education could teach manual laborers nothing that would benefit them. All the negroes knew was work. To many the rations so liberally supplied to refugees during the war and immediately afterward were but a stepping-stone to idleness. We have seen that they expected a division of the master's lands and this was in many respects the foundation of all the trouble. To whom this notion was due is a disputed question. The whites attributed it to the negro soldiers,—themselves but lately slaves, and hardly different, except in military discipline, from the new slaves who rallied about them. General Grant ascribed it to the agents of the Freedmen's Bureau, but at least the highest bureau officials were innocent. One of the curses of slavery to the white men was the facility for immorality, the temptation which the females of a lower race afforded the males of the higher. Henry Ward Beecher asserted that the white man's blood had mingled with the negro's throughout the South and a million mulattoes proved the charge. With no legal paternity, these yet felt themselves a grade above the blacks with whom they were classed, and often perpetuated in turn the immorality which had brought them into being. Their restless cravings might give rise to new questions. Beecher's indictment of miscegenation was one which should have applied anywhere on the globe under similar conditions. Mulattoes are found wherever black and white races adjoin. It was Napoleon who said adultery was less a crime than the fault of opportunity.

And yet, natural as it might be, the presence of a mixed race so begotten brought a real problem. In Mexico and further south the half-breeds, a cross between white and Indians, have been a menace to progress. Feeling themselves above the red men and yet rejected by the whites, they have been the moving spirits of revolution. Thus have the whites found that of their pleasant vices the gods have made whips to plague them. Would the same rule hold in the Southern States? Would the crossing, necessarily illegitimate, of the docile negro with the baser whites, or, it may be, even with the upper class of whites in their baser mood, produce a similar result? Would the mulattoes follow the mothers or fathers? Must it be that in a race, as in the individual, sin when it is finished would bring forth death? It might be that the Anglo-Saxon in them would supply the leadership which the Africans must have to be influential, and afford the cohesive impulse which the blacks in America as in Africa had always lacked; if so, the future would bring either a contest of races in which one or the other must prevail, or an amalgamation in which each would lose its identity.

There were some intelligent negroes at the South, although it was remarked that it was those who had received most and been best treated who were the readiest to leave the old homes. It was among them one would seek to find the desires and ideals of the race, for the others had little save a vague unrest and worship of freedom and the blue uniform. As if conscious that his strength was in imitation, not in initiation, the negro's desire was to mingle with the whites and assimilate their customs. It was a natural yearning for something better and higher, but the negro seemed unable to understand that the white man would wish to keep his own. The fact that the ex-slave Fred Douglass married a white woman had a subtle and lasting influence, none the less powerful for being unconscious. And can the negro be blamed? He had been received on equal terms in the Plymouth pulpit and encouraged

by non-resident enthusiasts not only to consider himself as good as the whites, but to force himself on them. The principle that equality does not spell identity was one which was not yet realized by any class, North or South. The race yearning for something higher would take the form of grand larceny of civilization if permitted.

No more pathetic picture is presented in history than that of these four and a half million of black people suddenly freed by the events of the Civil War. They had not sought this consummation. They knew not what use to make of it when it came. It was the result of an armed philanthropy, of a great crusading movement. What would become of them was a question which they were not competent to solve, and indeed it would be a mistake to think of their having as a race any feeling on the subject. They had lived on plantations a happy, careless life, one community knowing nothing of another, and now that they had become freedmen they still had no means of communication and no capacity to act together even if they had been able to communicate.

As among the whites, so among the negroes could be traced three classes. Thus, besides the pure blacks were those of mixed blood, mulattoes or even lighter tint, not a few of whom had been house servants or hired out in the cities. Some of them were skilful, some educated, and it was these who might prove the coming leaders. Perhaps even better educated were negroes who came from the North, many formerly slaves, but now preachers or politicians, willing if not anxious to play the part of Moses for the race.

The most influential Northern negro did not return South. Not less ardent than Sumner in advocating negro suffrage was Fred Douglass, who was now looked upon in some sense as the leader of his people. After emancipation, the old American Anti-slavery Society was disbanded by William Lloyd Garrison, its chief supporter, who deemed its work done, but Wendell Phillips was

opposed to this and ultimately brought Garrison over to his side. Douglass also thought his mission accomplished and was debating as to what business to apply himself; but all three soon decided that the abolition of slavery was not the final goal, that the ballot must be given to the negro. Indeed, Douglass uses almost the words of Sumner, echoed also by the negro convention in North Carolina, when he claims that liberty is dependent upon the ballot box, the jury box and the cartridge box. To the advocacy of these ends Douglass devoted himself and his people eagerly adopted the claim. It is true that Douglass preferred living in Rochester and later in Washington to returning South to share the heat and burden of the day; but it was because he thought he could be more useful in reviving his newspaper, now called the *New National Era*, in lecturing, and in influencing in different ways public men and sentiment. Thus we have seen him calling upon President Johnson and as a delegate from New York attending the Philadelphia convention, despite protests of white members. He classed Charles Sumner as one of his best friends, and it would be difficult to say which had the greater hatred of all race distinctions. Douglass's views tended to develop radical opinions among the Southern negroes.

On the other hand the great mass were pure blacks or mainly so, living on plantations and used only to country life. They knew nothing except working for a master, and if they were to labor in the future it must still be under some one. As a race they were ignorant, for education had been denied them, and they were generally supposed to be incapable of education. Their folklore was made up of tales in which American animals had now taken the place of African. Their religion was still of Voodoo and witchcraft, fetich and conjuring, slightly modified by the missionary work of white churches. They lived a happy individual life but not free from sorrow. Songs and weird chants and the wild enthusiasm of their meetings swept them, as they believed, into the presence of God. Their most serious

defect was on the side of morality, and if their condition must be classed rather as unmoral than immoral, it was a condition which could be improved only by instruction, and, if they were thrown upon their own resources, could result only in evil to themselves and everyone about them. There were also not a few who were called "bad niggers", violent men, kept in order only by the overseer's lash, and often making up the runaways and maroons. When freedom came these would be the quickest to take advantage of its opportunities and to give to the race a reputation which in many respects they themselves deserved alone.

It cannot, therefore, be said that the negroes had any ideals. These must be taught them. The old masters were willing to do this and in many cases were succeeding fairly well, but the most potent influence was the Freedmen's Bureau. The whites hardly understood it, but the blacks turned to the institution with a childlike trust. If well managed, it might be of incalculable good in supplying the place which the law now denied to the master; if mismanaged, it might be that no engine recorded in history would do more harm to the negro, both in inculcating wrong ideals and teaching him to hate his old friends. Now that the ballot was promised to the freedmen, the temptation was presented to the officers of the bureau to misuse their positions for their own personal advantage, to sow distrust between black and white for the purpose of benefiting themselves through the negro vote. If many yielded, if trouble came of the most serious character, the blame may rest to some extent upon these agents; but at last the authors of the scheme must be held chiefly responsible. If the notorious Osborn in Florida did harm in his own district, the cultivated Stevens, Morton; and Trumbull at Washington created the system and organized anarchy for the South.

The most influential leaders were to be the white immigrants in and out of the bureau. These acquired a hold which displaced the old masters, who have been criticised

for what they could not help. The story of the competition of the Southern with the Northern whites for control of the negroes will prove an interesting one and its issue may throw light upon what could and what could not be done in those troublous times.

And what of the old master race, the Anglo-Saxon South? We instinctively say the South, for the unity implied is truer than when we say the Southern States. Despite political separation, there was a political and social unity. There were classes even among the whites, for there were poor whites as well as gentlemen; but, if the latter led, the others followed their leadership. So true is this sectional unity that a consistent history could be written of the South, although none could properly be framed of the North as such.

The South had been the larger half of the original Union, perhaps the more influential, and gave some leading minds and leading hands to the organization of the country. At the beginning the main colonization had been from England, and, despite some French and even German infusion in different parts, British civilization dominated the whole continent. Whatever other nationalities had been represented were absorbed by the omnivorous British, and British civilization extended from Massachusetts to Georgia. In the South the coast people were English, the up-country Scotch-Irish, and local conditions made different types, each separate and all of value,—distinct as the waves but one as the sea.

In time a great difference grew up, although not appreciated at first. The superficial cause was the institution of slavery, which died out in Pennsylvania and further north while it flourished in Maryland and further south. For this there was the geographical reason that the negro was better fitted for a warm than a cold climate. It was a question, not of morals, but of political economy. This institution then was common to all that we have learned to call the South, and if not the main cause of the difference between the sections was at least the most typical, because

it was the outcropping of an economic condition which modified everything else. The North might outgrow the agricultural simplicity of Revolutionary days, but the presence of masters and subject races served only to intensify old conditions at the South.

On the Atlantic were Maryland and Virginia, both stretching back to that vast Alleghany mountain country, their main staple tobacco, but with a large admixture of grain and other crops. In Maryland at least there was true urban life through the influence of Baltimore, an influence which had always been lacking in Virginia, because Richmond and Norfolk were smaller in proportion to the size of the State. Then came the Carolinas, different in origin, different in stock. North Carolina was partially Virginian and partly looked to Charleston for guidance; to a great extent it lacked local initiative: while South Carolina, with its rice fields and ocean inlets, carried agriculture and commerce to the highest pitch. What Virginia had given to the Union in breadth, South Carolina, with her more local but more active patriotism, had made up in intensity. It boasted that more revolutionary battles had been fought within its limits than in any other State, and that while its bounds were narrow, its blood and influence were widespread. Georgia was similarly an outgrowth of Savannah and yet prior to the Civil War, from the production of cotton, had become of a somewhat different type, one shared and perhaps intensified by Alabama and Mississippi. All three were dependent upon the same staple, in whose cultivation slave labor played so great a part. All shipped their products to the seaboard, whether Gulf or Atlantic, and the three had closer interests possibly than any other States in the South. Arkansas and Florida shared the types of their neighbors, while Tennessee and Kentucky, with their tobacco and grain, although on the border, likewise looked to the Gulf for sympathy and advancement.

Louisiana and Texas represented foreign origins and to some extent preserved a Latin influence. This was

particularly true of Louisiana, whose great city New Orleans showed a civilization different from any in the whole country. It was rather a Montreal transplanted to the semi-tropics, and the parishes were like unto it. Sugar-cane disputed the sway of cotton, and the two together dominated this section. Texas, on the other hand, was a frontier district peopled from the other States with men of energy who had won their broad lands from Mexico and deemed themselves able to maintain them against the world.

Such was the geographical basis, the stage on which had been wrought out southern civilization. It was varied enough, and presented different types. One might say that the South was made up of more units than any other section of America, and these units under some circumstances might have developed in diversity if not in opposition.

And yet looking through the land from the Chesapeake to the Rio Grande we find one common interest: the whole country was dependent upon agriculture. Crops might differ. There was little manufacture; in the lower South there were no large cities with the exception of Baltimore, Charleston and New Orleans, for Savannah, Memphis and Mobile although active had populations of less than 25,000.

The industries of the South might be said to be confined to agriculture and commerce, and of these commerce existed only as the handmaid of agriculture. The trades were plied chiefly by negroes, some free, some hired out by their masters. The most skilful occupations, however, were never, as under the ancients, carried on by slaves. Transportation, which has since become of so great importance, controlling manufactures, agriculture and everything else, was then subordinate. Railroad development was in its infancy, and even steamboat navigation, which had attained a high place on many and great rivers, was subsidiary to cotton interests. Few if any boats carried passengers only. All were freight steamers, manned by careless, happy negroes, and piled to the guards on the way down with cotton bales, and on the return trip with groceries and supplies for the plantations.

Decks and cabins, like the passenger business at large everywhere, were subordinate to the carrying of freight. This usually was tobacco or cotton, marketed at Norfolk, Charleston, Mobile and New Orleans, to be shipped abroad or to the North, whence came return cargoes of manufactures bought in exchange. In Louisiana there was the industry of turning the cane into sugar and molasses; but even this was more a method of making the agricultural product exportable than a true form of manufacture.

Thus there was in common throughout the South the agricultural industry, varying as to the particular product in particular localities, the form of labor everywhere the same. The laborer was the negro, and the negro in a state of slavery. Slavery had been introduced long before in colonial days and had even then built up Virginia through tobacco. The negro had proved as essential in the rice fields of South Carolina, and later had a more extended use in the cotton fields of Georgia, Alabama, Mississippi, and the Southwest after Whitney's invention of the gin made it possible to supply cloth in some proportion to the increasing demand. The French, too, had in their sugar-cane in Louisiana at least as much use for negroes as had their old Anglo-Saxon rivals.

There was always dread of a servile insurrection, and herein was perhaps the chief evil. To have a whole land founded in one way or another upon slavery and this coloring all its thoughts and feelings, was to doom that country to a monotonous and one-sided development. If the roots must at all times be watched the foliage could not be great.

The fact that manual labor was performed by the blacks had advantages and disadvantages. The principal advantage was the exemption of the whites from labor, enabling them to put their energies into more intellectual pursuits, with the result that nowhere was culture higher or more diffused among the upper classes. The gentleness and beauty of the women became proverbial, and hardly less so the bravery and sturdiness of the men, whose duties, limited to

supervision, gave time for outdoor sports. No more perfect flowers of American civilization have to this day sprung up than Washington, Jefferson and Lee, nurtured in these fields.

And yet there is another side. Not only did circumstances tend to confine culture to the slaveholding class, who numbered hardly three or four hundred thousand in a population of five millions, but the non-slave owners, the poor whites, were doomed to competition with slaves. Not only did this cause them to hate the negro, but worse than all it put a stigma upon labor, although labor is the basis of all progress. In the lower South had been evolved a civilization with patriarchal government and virtues, which was a legitimate stage of human progress; but it had become unsuited to new industrial conditions, and was unsound at the base even if beautiful at the top. Although the slave-owners controlled, they were not the only class at the South, for in the highlands of all the States from Virginia to Alabama were a sturdy race of farmers who had few or no slaves, and could produce their Andrew Johnsons and Joseph E. Browns. There had always been a semi-antagonism between these classes, and new conditions in changing their relative importance might alter the whole tone of southern civilization.

Slavery prevented the development of towns, and the way in which manual labor was regarded discouraged the growth of many kinds of industry. The lack of town life interfered with the growth of everything connected with urban development. Banks, insurance, jobbing, schools, everything needed encouragement and did not grow readily out of the surroundings, for agriculture and commerce dominated the whole section. Schools there were, but largely private, as was indeed the case throughout the Union up to a short time before the Civil War. Teachers had to be imported or the young sent to England or to northern colleges. Princeton in New Jersey used to boast almost as many southern as northern students and southern students in England and France were not few. Not but that there were

good home institutions. The University of Virginia ranked with any in the land, and colleges in some of the States attained a high place; but they were not numerous and none could be classed as great universities.

Slavery had the effect of developing a military spirit. A part of the institution was the patrol which visited the homes of the negroes to prevent disturbances, and the militia was an important feature of the government. The military element thus acquired a general if not high development, and the material for cavalry was everywhere. As always happens where a woman is taken away from manual labor, a species of chivalry sprang up as in the Middle Ages. It may have grown out of the fact that women were kept in seclusion on account of the number of negroes, or to the natural reverence of man for woman when they are not brought into competition. At all events there was no more marked characteristic in the South than the regard in which woman was held.

Mental development turned into political channels and oratory assumed a high place. When in course of time slavery was shaken off at the North and seemed a necessity at the South, southern politics came to be tinged if not identified with it, to be devoted to the defense of an institution rather than to the progress of the country. It was local and one-sided, although it was high in its class. As a result literature fared badly. Books may be a by-product of civilization, as Powell suggests, but at all events they flourish best in untrammelled surroundings. Russia has not produced great writers except possibly some of protest, and the epochs of economic freedom in Italy, France and England have been those of greatest literary activity. There could be no discussion of slavery by pen or speech. *Uncle Tom's Cabin*, which created an epoch at the North, was contraband at the South, and, when read, read in silence and kept under lock and key. Instead of offsetting this touching but misleading romance of exceptional happenings by truer tales, like the idyllic *Diddy, Dumps* and *Tot* of a later day, denunciation

and intolerance prevailed, especially in the press. Even such books as those of Helper and Olmstead were read to be abused rather than answered.

Periodical literature there was, but the *Southron*, the *Literary Messenger* and the like had to be nursed like exotics. What poetry there was took the foremost rank, for Edgar Allen Poe is probably the greatest name in American literature, and if Sidney Lanier strikes a weaker, it is perhaps a sweeter note, and his essays ring true and clear. Earlier came the *Bivouac of the Dead*, and the war wrung from quivering hearts some beautiful ballads and lyrics. Forthwith come to mind *My Maryland*, and the weird poetry of Father Ryan, ranging from the patriotic *Conquered Banner* to his mystic religious lines. Belles-lettres and fiction, as in W. G. Simms and Augusta Evans, attained high place. There was the formal tendency once seen in England itself, when the love of the classics prevented the free development of a modern spirit. Indeed the South in mental growth remained almost where the country had been just after the Revolution. It was a kind of mental stone age preserved. Institutions remained English to a degree which people in the more elastic and expanding North never realized. Men beyond Mason and Dixon's Line acquired a modern activity and continental notions because of the necessity for expansion with the incoming of so many Europeans free of local feeling. They blamed the South for a false construction of the Constitution, when it is possible the South had remained where it was when the Constitution was adopted, and that the North was pouring a new wine into the old bottles. The natural tendency of culture in general and the defensive character finally forced on slavery caused the South to be conservative.

The process of reconstruction so far as concerned the South, white and black, might prove fourfold, and relate to family and church, as well as to the political and industrial association of the two races. At the beginning, particularly after the governments established by President Johnson had

been stricken down, it was uncertain to what extent Reconstruction would go. Such men as Stevens advocated amalgamation of the races and perfect equality in all relations. What experiment would be tried no one could tell, and so far as the negro was concerned he was willing to go as far as his Northern leaders instructed him. The effect of it would vary in different parts of the South. Thus in South Carolina the negroes were in the majority and the mass of them were gathered about the coast in a low state of civilization. Somewhat similar conditions prevailed in Louisiana; for in both States the negro laborers were more numerous in the rice and other malarial districts, where the white man did not flourish, and Mississippi presented special conditions also. The effect in these particular regions would be more disastrous than in the others, although the change impending was sufficiently grave to arouse all classes and sections.

Not only at Washington, but throughout the North a feeling of exultation swept the country that the southern problem was now to be thoroughly solved. There was no compact left with what Sumner called Rebel Barbarism. The negroes were no longer to be oppressed. With the ballot in their hands they would work out their own salvation and prove the equal of their late masters.

At the South the whites were in consternation. Not only was the past undone, but the foundations of the future were destroyed. Men groped hither and thither in the great darkness to find where they were. There were no leaders available, for by the acts of Congress all these were disfranchised, and if they could speak or they could write, it was with difficulty, and they could not put their speech into action. And there were varying degrees of wisdom among them at the best. Mr. Stephens might be quite as positive under new conditions, and might prove to be quite as unwise as under the old. Others in different sections gave different advice; while the greatest of them all was the saddest, for General Lee could still only counsel acceptance

of what appeared inevitable, and live, as he was to die, with a heart breaking over what was impending.

Newspapers were hardly more serviceable, for the press had not become at the South what it was at the North. True the *Baltimore Sun*, the *Louisville Courier* and the *St. Louis Republican* were great papers, but they were in Border States, where the problems were less pressing, and moreover they had their own local affairs and local circulation to look after. Mail communication and the number of the educated class further south had not been such as to develop a great reading public, even in more prosperous days. It is true that on the Atlantic the *Richmond Examiner*, the *Charleston Courier* and the *Savannah News* exercised considerable influence, and even further south the *Memphis Appeal*, *Montgomery Advertiser*, *Mobile Register* under John Forsyth, and the *New Orleans Picayune* had a fairly large circle of readers. But none of them attained commanding importance and none of them quite rose to the occasion. Vituperation of the North there was in abundance, advocacy of force and advocacy of patience; but none spoke as a prophet and none commanded full respect as a leader. Nor indeed could one expect much else. Looking back upon a revolution we can trace its course and see that it must have worked out as it did because of the laws which controlled it. Looking forward, this is never so. We know not what is before us, nor what course events will take. What seems wisdom in advance may prove folly in the end.

It was not merely a reconstruction of governments but a reconstruction of the people that would be needed. It was one thing to enact that the white and the black should stand upon an equality; quite another to make them so, or to make the white man admit that this was possible. This white man was the same as he had been before the war,—not only in traditions and institutions, but often the very same person. The surrender made no difference as to his relation to the negro except the realization that slavery was gone and that some kind of contract relation had to be

entered into with the old servants if they were to remain in the South at all. The disasters of war had made men used to contemplating emancipation, and to that extent the old intolerance was removed. There need be no further discussion of the value or the necessity of slavery. Blockade running had been unreliable and what things could be brought in over the Texas frontier were insufficient to supply the whole country. On almost every plantation spinning and weaving, making shoes and clothing, curing meats, and simple industries like preparing candles and household supplies had been introduced or improved, until a rude form of manufacture was already rising as slavery was falling. There was hope in this, although agriculture could not cease to be the principal occupation. There was little change, however, in the mental make-up of the southerner himself. Four years of war had turned men's thoughts mainly into military channels and the destruction of colleges during the war only accentuated the failure of education for the time. There was the same attitude toward the negro as an inferior race, the same love of everything southern, and the bitterness of defeat had not brought love for anything northern. To expect otherwise was foolish. The men who had to face the new problems were those who had faced the old.

And now that slavery was gone, which Stephens had called the corner-stone, was anything left of the old civilization worth saving, or anything that could be saved? That was the question to be settled; and yet anyone looking into it with sympathy could not fail to answer in the affirmative. The new conditions might bring a new estimate of labor, and that could only do good. The kindly feeling toward the negro might be changed, and that might do harm to both races, except that race antipathy might enforce race purity. But the representative institutions, broadened so as to admit all worthy men instead of certain families, the development of natural resources so as to diversify industries, the chivalry unchanged which made woman queen, the tendencies which created statesmen and orators, now with

even wider fields,—all this should be preserved and would produce something greater if less beautiful than the old. The love of home and country still lived,—would this permit men to give up the fight and turn over the land to negro rule? There could be but one answer. The Anglo-Saxon has never emigrated to surrender his home to another race; when he has migrated it has been only to take possession of the land of another people.

It would be too much to say that there was any understanding even among the leaders of the South as to the new conditions. It is not true that there ever was agreement among the leaders upon anything. No more absurd theory has ever been broached than that the Southern Confederacy was the work of a few politicians. Some doubtless led, but the response was universal, and the fight made by five million whites against twenty-one millions for four years, the absence of defection from their ranks, the difficulty of organizing Union governments even in conquered States, all point to one conclusion. The people made the cause their own. It might be for a reason which does not indicate the highest state of society, for in the highest development people are not agreed upon anything; there is universal discussion and the sense of the majority is often hard to find and enforce. In the South there had long been a majority one way, and it was one to which the minority in 1861 came over; for as a race all felt alike.

Politics had been sufficiently uncertain immediately at the close of the war, but the tendency was to go back to the old party division of Whigs and Democrats. Of these the Whigs had favored the stronger government and had as a rule been more opposed to secession, so that the natural result of the war was to bring them back into prominence. There were then also many northerners coming in, either ex-soldiers or men desiring to raise cotton. The situation at the time of the reconstruction legislation, however, was different. All hopes of peaceful development by the whites were at an end. The threat was held out that negro

citizenship was to be followed by equality in politics and social rights, and there were but two plans possible. On the one side people might accept the situation and strive to evolve something out of the chaos which impended. On the other side, resistance might be continued in some form, although in what form could not for the time being be discerned.

Both of these points of view were natural, both could be held and were held by perfectly honest men. If the negro was to become a voter, it seemed to some the better plan to try to influence if not to control him, distasteful as it might at first prove. This was the opinion of such men as James L. Orr, of South Carolina, Joseph E. Brown, of Georgia, J. L. Alcorn, of Mississippi, and Robert M. Patton, of Alabama. Probably there were few communities which could not point to men of high character who were disposed to make the best of the situation in some such manner. If the whole South had been able to take this view, the result would have been far different; and if the larger part of the South had been forced into secession, as some have imagined, this point of view would have been taken now that the leaders were driven into retirement. But such had not been the past, and such was not to be the future. Instinctively, race pride revolted against the new conditions, and in course of time these new leaders, in advance of their day, might feel the displeasure of their fellow-citizens. It must be remembered also that some southerners who adopted the Reconstruction policy did not stand high and went over to the government side only for the sake of public office. These were naturally much in earnest, and, as they came to give the tone to their party, they came also to be hated as renegades by most of their countrymen. As a term of opprobrium there was applied to them the name Scalawag.

For a couple of years after the war, immigrants were interested in planting and not in politics. Many were to be unsuccessful in business through not understanding conditions and were to find themselves led or driven to the open door

of office when the Reconstruction legislation forced the bulk of the native whites into retirement. Not a few of these immigrants were enterprising and well-intentioned. The difficulty was that they failed to realize the feelings of the war must produce bitterness and that those whom they called Bourbons could not be anything else for the time being. Tact could have saved much hard feeling, but, as might have been expected, tact was lacking on both sides. As time rolled on other men came from the North for the express purpose of bettering their fortunes, and thus gave rise to the bitter name of Carpetbaggers, indicative of the little they brought and what they expected to make. By whom the names Scalawag and Carpetbagger were originated is not certain, nor where they first came into use; but they caught the popular fancy and were soon universally employed, sometimes perforce by the people to whom they were applied, for some Northerners could, like Warner, of Ohio, glory "in the progressive spirit which made them Carpetbaggers." History sometimes adopts words which were nicknames at the beginning, and it seems likely, that, not less than the Beggars of Holland and the Roundheads of England, will the Carpetbaggers and Scalawags be embalmed in literature.

Such were the two races facing each other in the South, the vague hopes and longings of the Africans, the determination, real but as yet unrealized, of the Anglo-Saxons and the Latins. What would be the result of the attempt to reconstruct them?

CHAPTER IX

MILITARY ADMINISTRATION IN THE SOUTH

THE reconstruction measures had a double aspect. As concerned the present they were administrative, and as concerned the future, they were constitutive or constructive. The two can be considered separately. The constitutive process, establishing a new electorate, was longer and varied somewhat with the facts and surroundings in the respective States; personal government by the military had in all five districts many features in common and can well be studied by itself. It went upon the theory that "no legal State governments or adequate protection of life now exists in the rebel States", and that therefore it was "necessary that peace and good order should be enforced in said States until loyal republican State governments can be legally established."

The new situation was thus unique, for it was not the same as upon the surrender of Lee. Then there was a condition of martial law after the cessation of actual hostilities, a situation which follows all wars. It was the intermediate state between war and peace. In 1867, however, there was a very different state of affairs. The southern governments had already been restored and were in the full exercise of their powers. It is true that the army still had posts throughout the South, but these were neither numerous nor strong, and the army did not undertake to control the local administrations. It was strictly subordinate to the civil government at Washington and had been by the president only sparingly used, to supplement rather than interfere with

local action. From 1867, on the other hand, the express purpose of Congress was for the time being to make the military supreme. The department of the Potomac with headquarters at Richmond, the department of the South with headquarters at Charleston, and the department of the Gulf with headquarters at New Orleans still remained and these and other divisions were merely modified to meet the reconstruction law. Thus West Virginia, Tennessee and Kentucky were constituted a new department under the command of General Pope, and the staff officers of the department of the Potomac were assigned to corresponding duties at the headquarters of the first district, and somewhat similar arrangements were effected at Charleston and New Orleans. Divisions were modified, but there was no other substantial change.

Whatever his view as to reconstruction,—and there could be no doubt of his disapproval of the policy,—President Johnson acted promptly in the assignment of the military officers needed. Thus, on the 11th and 15th of March, 1867, through orders from the army headquarters, General Schofield was assigned to the command of the first district, General Sickles to that of the second, General Pope to that of the third, General Ord to that of the fourth, and General Sheridan to that of the fifth. All were distinguished and capable officers.

The Federal military were now in many respects supreme, and the spectacle was presented in modern times and in America of autocrats whose power was not equalled outside of Russia; for the southern communities were to be governed according to a benevolent despotism. How absolute power would be exercised under such circumstances is a matter of historical interest and deserves careful consideration.

The reconstruction acts conferred broad powers and left much to the judgment of the commanders. If they considered themselves as designed to supplement civil administration, correcting it only where improper, they would

pursue one course of conduct; if, on the other hand, they should assume that the military had become supreme, they would practically be dictators and employ the local governments only as a matter of convenience, superseding them when they thought proper. The former was the theory of President Johnson and his Cabinet; the latter, of Pope, Sheridan, and possibly of Sickles.

Existing civil governments in the Southern States were "deemed provisional only and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control or supersede the same." This recognized these existing governments, but it rendered them provisional. There could be no question that they were subject to the paramount authority of the general government, but was this authority to be exercised by Congress through further legislation, by orders from the president, or directly by the local military commanders? As to the answer, opinions differed.

We shall find that the autocracy of the commanders seemed to increase as one progressed further from Washington. Thus Schofield was moderate, Sickles inclined to be more severe, while Pope breathed manifestoes, and Sheridan at New Orleans made himself supreme over everyone. The air or the people of that city seemed to have a bad effect on Federal generals. This result may have been due to the increasing number of negroes and the masterful nature of the white man as one went further South and neared the unstable Central American republics. Whatever the cause, the fact cannot be disputed.

The co-existence of military and civil authorities made the system somewhat complicated and prevented dictation of a code to cover all cases. The points of contact, however, between the civil and the military spheres were numerous enough, and may be grouped under several classes. Thus, there was the connection between the military and the civil administration; there was perhaps as regards private citizens the more important matter of private law; there was the

further interesting question of the relation of the military to the civil courts and judicial procedure. The first question was of police regulation.

In most civil wars it is difficult to establish a point when hostilities actually cease. The surrender of the main army is often succeeded by irregular warfare, which may be indefinitely prolonged. The American Civil War did not present this feature, and it was due to the fact that the southern people as a rule accepted the results in good faith. They had attempted to dissolve their connection with the Union and had failed. They prepared to resume their old relations. It was not remarkable, however, that the northern people did not fully realize this. It was natural that they should look and prepare for guerrilla warfare, and there were some features which could be so interpreted. Brigandage, of course, existed to some extent, but this ceased after a few months. The only thing which seemed to require attention was the rough treatment of the negroes in some quarters and of Union men in others. There were some symptoms of this in different parts of the South, and it was to be expected.

Aimed at all such proceedings were the regulations now issued by the district commanders. Bodies of citizens assembling under any pretense were prohibited, and similarly in the fifth district the assembling of men with arms for political or other purposes and posting them as sentinels, was likewise prohibited by military orders. In the third district an order in December prohibited all military organizations and the parade of armed men except United States troops.

The feature of the situation at the South which more than any other inflamed the people at the North related to the so-called Black Codes. These had, as we have seen, a double purpose. The one was on the police side, for they were designed to keep in order unsettled and unruly negroes, wandering about the country and committing depredations. The other was on the civil side, designed to create

a temporary system of *quasi-serfdom*, compelling the freedmen to work, and preferably for their old masters. This was intended to produce the result of keeping them on the plantations and preventing a vagabond life.

Pending the reformation of the local laws under the influence of reconstruction measures, the act of March 2, 1867, making appropriation for the support of the army, provided in Section 5 "That it shall be the duty of the officers of the army and navy and of the Freedmen's Bureau to prohibit and prevent whipping or maiming of the person, as a punishment for any crime, misdemeanor or offense, by any pretended civil or military authority, in any State lately in rebellion, until the civil government in such State shall have been restored, and shall have been recognized by Congress of the United States." This bill was approved by the president rather than have the soldiers deprived of their pay, and, based upon it, Schofield in General Orders No. 2 promptly prohibited the whipping or maiming of a person as a punishment for any crime, misdemeanor or offense. The same provision was made in the second military district with the addition that all officers of the army and of the Freedmen's Bureau were directed to prevent the infliction of such punishment by any authority whatever, and somewhat similar orders were issued in each of the districts.

As a police regulation several of the Southern States had formed a militia, always of white men, with the immediate object of the preservation of peace and order, particularly in the Black Belt. This was done, at a very early date, for instance, by the provisional governor of Mississippi, and was promptly followed in other States. The Republican leaders considered this an attempt to oppress the negroes and so the same appropriation act by Section 6 provided "That all militia forces now organized or in service in either of the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Louisiana, Mississippi and Texas, be forthwith disbanded, and that the further organization,

arming or calling into service of the said militia forces, or any part thereof, is hereby prohibited under any circumstances whatever, until the same shall be authorized by Congress." The prohibition was published and enforced in the different districts.

Texas presented the feature of being a frontier State, both against Mexico and the Indian Territory, from each of which quarters trouble might be expected, so that there this prohibition of militia acted with peculiar hardship and caused much dissatisfaction. Even when finally a reconstruction convention met which was satisfactory to the Republican leaders, a resolution was passed urging upon Congress "the necessity of authorizing the organization by that body of a military force in the several counties of Texas, to act in conjunction with, and under the direction of, the military commander therein, for the protection of the lives and property of the citizens now every day being preyed upon by assassins and robbers to an extent unparalleled in the history of civilized communities in times of peace, and which if not speedily arrested, must result in the destruction of social order; and that if protection be not speedily provided in some form by the national government to the loyal and law-abiding citizens of Texas, they will be compelled, in the sacred right of self-defense, to organize for their own protection."

It was quite characteristic of the partisanship of the day that the same cause produced different results in different places. Thus there was no opposition to the militia of Tennessee, a State which had been recognized or admitted by Congress in the summer of 1866. A Tennessee act authorized the governor to organize and call into service a volunteer force to be composed of one or more regiments from each congressional district, made up, however, only of "loyal men", who were required to take the stringent ironclad oath prescribed in an earlier franchise act. The governor was made commander-in-chief of this force, which was to be regulated by the rules of war and the revised army

regulations of the United States, and to receive the same pay as the United States military.

On February 25, 1867, Governor Brownlow issued a proclamation reciting "that certain atrocious murders and numerous outrages have been committed in certain counties in this State, by violent and disloyal men, upon the persons and property of Union men, whose only offense has been their unswerving devotion to the national flag, and their uniform support of the State government; and whereas these bad men are banding themselves together in some localities, and notifying Union men to leave within a given time: Now, therefore I, . . . do hereby proclaim, that I intend to put a stop to all such outrages, by calling into active service a sufficient number of loyal volunteers." Continuing, the governor declared that standing on the broad principles of the Constitution he had no concessions to make to traitors, no compromises to offer to assassins and robbers, and, if retributive justice came to them, it would be their own fault.

He concluded what he called his "brief proclamation" with the following words: "Prudent and experienced men will be placed in charge of the State Guard in every county where they are placed, who will be required to protect all good citizens, irrespective of political parties, and to punish murderers, robbers, and all violators of law. And the number of troops called into active service will be increased or diminished as the good or bad conduct of the people shall be developed. Hoping this proclamation will strengthen the hands and inspire the hearts of the loyal people of our State, as to the future, and deter the disloyal from further acts of violence, I respectfully submit it, with a repetition of the assurance that I mean what I say, and that the General Assembly was in earnest in the passage of this military law."

He was unquestionably in earnest, and used his State Guard vigorously against all whom he chose to consider disloyal, whether on election day or other occasions.

Even more troublesome for the Federal military than police supervision was the question as to supervision of civil officials. The commanders on assuming charge of their departments generally announced that the military would not be used so long as the civil authorities properly performed their duties. Thus in the first district General Schofield, in General Orders No. 1, issued at Richmond March 13, 1867, announced his assumption of command and directed that all officers under the existing provisional government should continue to perform their duties unless otherwise ordered in individual cases. He added, "It is desirable that the military power conferred by the before mentioned act be exercised only so far as may be necessary to accomplish the objects for which that power was conferred, and the undersigned appeals to the people of Virginia, and especially the magistrates and other civil officers, to render the necessity for the exercise of this power as slight as possible, by strict obedience of the laws, and by impartial administration of justice to all classes."

The plan of Congress contemplated that in elections negro suffrage should prevail, and therefore it was the policy of the district commanders to prevent all elections until this was voluntarily established by the several States. If the term of an office expired, either the incumbent was directed to continue or someone else was substituted in his place. Early in April, Schofield in General Orders No. 8 directed that "All elections, whether State, county or municipal, under the provisional government of Virginia, are hereby ordered to be suspended until the registration provided for by the act of Congress of March 23, 1867, shall be completed. Vacancies which may occur in the meantime will be filled by temporary appointments, to be made by the Commanding General."

Even before the commander of the third district arrived, Wager Swayne, in charge of Alabama, ordered that "By direction of General Grant, all State and local elections in this State are dissolved, pending the arrival of the district

commander appointed for this district, and his order in the premises." When Pope came he issued one of his sonorous proclamations directing that "The civil officers at present in office in Georgia, Florida, and Alabama will retain their offices until the expiration of their terms of service, unless otherwise directed in special cases, so long as justice is impartially and faithfully administered. It is hoped that no necessity may arise for the interposition of the military authorities in the civil administration, and such necessity can only arise from the failure of the civil tribunals to protect the people, without distinction, in their rights of person and property.

"It is to be clearly understood, however, that the civil officers thus retained in office shall confine themselves strictly to the performance of their official duties, and whilst holding their offices they shall not use any influence whatever to deter or dissuade the people from taking an active part in reconstructing their State government, under the act of Congress to provide for the more efficient government of the rebel States and the act supplementary thereto.

"No elections will be held in any of the States comprised in this military district, except such as are provided for in the act of Congress, and in the manner therein established; but all vacancies in civil offices which now exist, or which may occur by expiration of the terms of office of the present incumbents, before the prescribed registration of voters is completed, will be filled by appointment of the general commanding."

In the fourth district, E. O. C. Ord, on assuming command, by General Orders No. 1 directed in almost the same manner that "Competent civil officers in this district are expected to arrest and punish all offenders against the law, so as to obviate, as far as possible, necessity for the exercise of military authority under the law of Congress."

Sheridan was already at New Orleans, and in his General Orders No. 1, issued on the 19th of March, declared that "No general removals from office will be made, unless

the present incumbents fail to carry out the provisions of the law, or impede the reorganization, or unless a delay in reorganizing should necessitate a change. Pending the reorganization, it is desirable and intended to create as little disturbance in the machinery of the various branches of the provisional governments as possible, consistent with the law of Congress and its successful execution; but this condition is dependent upon the disposition shown by the people, and upon the length of time required for reorganization."

There was no question that the authority of the United States was paramount, but the law did not expressly say by whom this authority was to be exercised. However, the district commanders did not hesitate to assume the right to reprimand and remove whomever they deemed unsuitable. A corollary to removal was the appointment of successors, for there certainly was no authority to abolish offices. The result was that the district headquarters became scenes of wirepulling and struggle for office. In some cases military officers were appointed *ad interim*, in others loyal citizens, and in course of time the test of loyalty became changed. At first it covered attachment to the Union; after awhile, as the object of the reconstruction laws was more clearly defined, it applied to men who were in favor of negro suffrage and who in one way or another identified themselves with it. As such people, from the nature of the case, broke with the southern whites, they were either importations from the North or those whom the natives looked on as renegades of the South. In either case friction with the mass of people was sure to result, without regard to who was in fault. Minority government is never popular, and here was added the feature of the minority consisting of strangers and men deemed traitors.

It was quite characteristic of Sheridan that he should be the first to exercise the power to remove civil officers. Thus as early as March 27, 1867, he removed the attorney-general of Louisiana, the mayor of New Orleans, and the judge of the first district court of that city, and directed

that each person removed turn over the books, papers and other records pertaining to his office to the successor appointed, and that the authority of the latter should be duly respected and enforced. In May he compelled a wholesale reorganization of the New Orleans police on account of an alleged discrimination against Union soldiers. An act of Louisiana in 1866 provided that the police should read and write English and have resided five consecutive years in the city, which excluded northern men, and the military order now suspended the five years' requirement and substituted two years instead. No discretion was allowed Mayor Heath, and he had to fill at least one-half the force with Union soldiers. Sheridan also removed Sheriff Hays and substituted Avery instead, and indeed did not hesitate to lay his hands upon higher officials. In June he suspended an order as to the board of revenue commissioners, and also removed Governor Wells as "an impediment to the faithful execution of the reconstruction act",—an offense which was to become frequent. Thomas J. Durant was appointed and on his declination B. F. Flanders became governor. Somewhat later Flanders himself resigned and Joshua Baker was appointed governor in his stead.

On the resignation of Judge Cazabat, Cutler was appointed judge; but Hancock had then come and soon revoked the order and restored Cazabat. In Hancock's time members of the board of aldermen were removed for holding an election and others appointed in their place,—an action revoked by General Grant.

Of the other districts there is less to say. General Schofield was sparing in the exercise of the right of removal, although he directed that sub-district commanders should report the names of all State, county and municipal officers who were disloyal to the United States and used their official influence to prevent reconstruction under the acts of Congress. In 1866, the office of governor of Virginia became vacant by the expiration of Pierpoint's term, and as he was ineligible for reelection, the district commander

exercised the power to appoint, his choice falling upon Henry H. Wells. In the second district Canby in October, 1867, suspended Aldrich from his functions as judge of the court of common pleas and general sessions, and Governor Orr was authorized to assign another judge to hold court.

In the third district Pope early began to remove civil officers. Thus he removed Mayor Sloss, of Tusculumbia, and appointed a new mayor because the election had not to his mind been conducted in accordance with the acts of Congress. It was true that negroes had voted at this election, and Sloss had received two-thirds of all the votes cast, but Pope claimed they had been controlled by the whites. On May 14th Representative Kelly, of Pennsylvania, spoke in Mobile at a public meeting composed largely of armed negroes and in the riot which ensued several whites and one negro were killed or wounded. Of this General Swayne made a guarded report, but the military assumed charge of the city, suspended the police, prohibited meetings and the publication of violent editorials. Pope went further and declared all offices at Mobile vacated, but his appointees refused to accept, and, as the old officials declined to act, Pope in effect directed Swayne to appoint negroes. Some even of these declined, but he secured a white mayor and negro police. One of these arrested a white woman for calling a driver who had almost run over her child "a black rascal", and dragged her along the street. He was by Mayor Horton fined ten dollars and Horton then had troubles of his own. The *Mobile Tribune* criticised him and his associates, and a half-witted negro newsboy followed the mayor, selling papers and making remarks about him, until Horton banished him more than once to New Orleans. The consequence of this was that Horton himself was fined by Judge Busteed for violating the Civil Rights act.

Pope removed mayors, chiefs of police, assessors, collectors, school trustees, county commissioners, justices, sheriffs, judges, clerks, constables, city clerks, solicitors, school superintendents, aldermen, and common councilmen in sundry

places. A sweep of all the officers of Selma was made somewhat as in Mobile. Pope removed over thirty officials, but through expirations managed to appoint in all over two hundred officers in Alabama alone.

In Georgia somewhat the same story could be told, although when Meade assumed command he protested to Grant that it would be impracticable to fill the offices unless the test oath was omitted from the proposed legislation. It fell to his lot, also, to remove a governor and high State officials, as when in January, 1868, he removed Charles J. Jenkins, provisional governor, and George Jones, provisional treasurer of Georgia, for refusing to pay warrants drawn by the military on the State treasury. Brigadier General Thomas H. Ruger was appointed governor, and Captain Charles H. Rockwell treasurer. A few days later Comptroller Burns was also removed, and Captain Charles Wheaton was not only appointed his successor but made Secretary of State in the place of N. C. Barnett, removed.

In the fourth district an order of July 29, 1867, notified civil officers that any attempt to render nugatory the reconstruction acts by speeches or demonstrations at public meetings would be deemed a sufficient cause for summary removal. On June 16, 1868, General McDowell, who had recently assumed command, removed Governor Humphreys and Attorney General Hooper in Mississippi, and appointed General Adelbert Ames as military governor, and Captain Jasper Meyers as attorney-general.

Texas had not been restored under Johnson's policy until late in 1866, and in August its legislature met and Governor Throckmorton was inaugurated without interference by the Federal government. In October of the same year the president urged the legislature to make laws as to civil rights applicable to all persons regardless of color. The State became a part of the fifth district, and its extent and distance from headquarters rendered administration difficult and unsatisfactory. Finally the governor appeared to General Sheridan to be an impediment to reconstruction, and

on July 30, 1867, he was removed, and E. M. Pease, a civilian, his unsuccessful competitor, was appointed in his place. Judge Edward Dougherty was removed during the next month for denying the supremacy of the laws of Congress, and a successor was appointed.

The removal of governors attracted even more attention than other acts. Sheridan expressed unfavorable opinions of the political leaders of Louisiana and Texas, including Governor Wells, but Wells had influential friends in Washington and on removal of the governor the matter was brought to a focus. Attorney General Stanbery considered the subject and in an exhaustive opinion of June 12, 1867, decided that the reconstruction legislation gave no authority for removal or appointment of civil officers. The only effect of this, however, was further legislation validating such acts, turning the power into a duty to remove all officials disloyal to the government of the United States, and compelling appointees in future to take the "ironclad oath" prescribed for officers of the United States in the act of July 2, 1862.

The exercise of removal was never extended to members of the legislatures for the reason that legislators were prohibited from meeting, inasmuch as they had been chosen only by white electors and it would be practically nullifying the intention of Congress for such men to make further laws for States which had been put under military government for the very purpose of getting rid of legislation by the whites alone. The army, therefore, somewhat like Charles I, was enabled to get along without being hampered by legislation. In consequence possibly the most interesting development of military rule during this period was its creation of civil law, a distinct advance on the administrative measures already discussed.

The most far-reaching provisions were made by Sickles in the Second District. By the famous General Orders No. 10 it was recited that "The general destitution prevailing among the population of this military district

cannot be relieved without affording means for the development of their industrial resources. The nature and extent of the destitution demand extraordinary measures. The people are borne down by a heavy burden of debt, the crops of grain and garden produce failed last year, many families have been deprived of shelter, many more need food and clothing, needful implements and auxiliaries of husbandry are very scarce; the laboring population in numerous localities are threatened with starvation unless supplied with food by the Government of the United States; the inability of a large portion of the people to pay taxes leaves the local authorities without adequate means of relief, and the gravity of the situation is increased by the general disposition shown by creditors to enforce upon an impoverished people the immediate collection of all claims. To suffer all this to go on without restraint or remedy is to sacrifice the general good. The rights of creditors shall be respected, but the appeal of want and suffering must be heeded. Moved by these considerations, the following regulations are announced. They will continue in force with such modification as the occasion may require until the civil government of the respective States shall be established in accordance with the requirements of the Government of the United States."

To carry out these humane views Sickles ordained what Stanbery characterized as a code. Thus in Section 1, imprisonment for debt was prohibited except in cases of fraud. In Section 2 judgments or decrees for payment of money on cases arising between December 9, 1860, and May 15, 1865, were not to be enforced by execution, and proceedings in such cases were to be stayed. The sale of property upon execution and liabilities prior to December 9, 1860, was suspended for twelve months, and the sale of property by subsequent mortgage was also held up. By Section 5 proceedings and judgments based on the purchase of negroes were also suspended. Copying Banks's regulations, a new right was given in the shape of liens for agricultural

advances and wages for the production of crops. By other sections a homestead exemption was provided which could not be waived, foreign attachment prohibited in some cases, and bail forbidden in actions *ex contractu*, although still permitted in those *ex delicto*.

Sickles also made some criminal law. Thus in Section 11 recognizance might be given on a criminal complaint without security, and in successive sections followed the prohibition of carrying deadly weapons, of whipping, maiming, branding, stock, pillory, and corporal punishment, and instead of death in case of burglary and larceny imprisonment was substituted.

Other provisions declared the currency of the United States to be a legal tender and gave to the governors of the two Carolinas power to reprieve or pardon and remit fines and penalties. In Section 17 it was declared that "any law or ordinance heretofore in force in North Carolina, inconsistent with the provisions of this general order, is hereby suspended and declared inoperative."

In the fourth district in June, 1867, sales of land, implements, stock and the like where the cause of action accrued prior to January 1, 1866, were temporarily stayed, but somewhat later, the general commanding refused to issue an order for the relief of debtors on the theory that the homestead and exemption laws of Mississippi were adequate. In Virginia in March, 1868, sales of property under deeds of trust were suspended where this would result in a ruinous sacrifice or leave infirm persons without support. In the third district, however, Pope disclaimed the purpose to interfere with the relation of debtor and creditor on the ground that a stay law was not within his province. When General Meade succeeded he declared that an ordinance of the Alabama convention as to the collection of debts was to be held as in full force and effect until Congress should reject the proposed constitution. As the instrument was not valid until such acceptance, this was practically reversing Pope's policy and establishing a stay law.

Meantime the question of stay laws came up in the Federal courts and the validity of the military legislation was to be decided by no less a person than the chief justice of the United States. His circuit embraced General Sickles's district, where these provisions were most stringent. The chief justice was Salmon P. Chase, once senator from Ohio and afterward the secretary of the treasury who devised, or at least made effective, the national banking system which carried the Union through the war. While yet in the Cabinet he was somewhat censorious of the president, but Lincoln characteristically overlooked his failings, recognized his great ability and public usefulness and appointed him chief justice on the death of Roger B. Taney. His views upon all political questions of the day were well known, and Sumner was not more of an abolitionist or more earnest in desiring universal suffrage. During the war and afterward Chase freely expressed the opinion that reorganization of the Southern States should be effected by all loyal citizens, whether white or black. It was he who on the sad morning of Lincoln's death administered the oath of office to Andrew Johnson, and immediately at the close of hostilities Chase undertook a trip through the rebel States. By accident his vessel lay for a while in a southern harbor alongside that carrying Jefferson Davis. The two men did not meet. Wherever he went he inquired into existing conditions, and became more confirmed in his conviction, that, not only should suffrage be extended to the blacks, but for their protection it should not be restricted to the more intelligent but made universal.

He had advocated the opening of the district and other Federal courts throughout the Southern States even while they were under military supervision, but declined to hold court there himself until every vestige of military rule should be removed, for he did not think it consistent with the dignity of the supreme depository of judicial power to be under the control or even the protection of the executive. For this reason he declined to entertain any motion to admit Jefferson

Davis to bail, although he said a district judge could act on the application.

Later he considered that the president's proclamations had restored the right of *habeas corpus* and practically removed military rule, and therefore he felt at liberty to go on his circuit, so in June, 1867, he held court at Raleigh, where General Sickles had been enforcing his new-made stay laws and preventing the State courts from levying execution. Chase on a proper case coming before him directed the marshal to levy execution. The post commander interposed and was sustained by Sickles, but Chase calmly declared that he would uphold the marshal, and said he did not think that Sickles would attempt to arrest him. The matter was referred to Grant, who promptly directed that the mandate of Federal courts should be carried out. Thus the anomaly was presented of claims, of exactly the same nature, being enforceable in one forum and not in another. An accidental but important result of the controversy was that the president now carried out the suggestion made earlier by Stanbery and removed Sickles.

The most striking instance of military supervision was that relating to taxation. To the mind of the commanders it seemed to follow, that, if the State and municipal treasuries were devoted to improper purposes, the whole subject of money and taxation should be brought within military supervision; and this result actually happened in some cases. The collection of taxes levied in Texas during the rebellion was prohibited, and in the third district post and other commanders were required to furnish to the proper civil officers such military aid as might be needed to enable them to collect taxes imposed by the laws of the State. Going further, in December, 1867, a system of taxation was established for the support of the provisional government of South Carolina and appropriations ordered for officers and the expenses of the State. This precedent was followed in other places, and indeed improved on, for nothing was permitted to be paid out that savored of aiding the late

rebellion. Even the furnishing of wooden legs and other assistance to disabled Confederate soldiers was prohibited. Fortunately there was not a great need for the supervision of the revenue department of the different States apart from the general machinery of government until the constitutional conventions met, for the preliminary expenses of registration were paid by the United States.

The great object of the reconstruction policy was to place the negro upon equality with the white man. Politically this was to be attempted by the constitutive part of reconstruction; civilly, it was attempted at once by administrative measures, and Congress itself by direct legislation had prohibited discrimination between the races in the matter of punishments. Among the forms of discrimination considered by the district commanders, and by none more than Sickles, was that on the part of common carriers. On May 30, 1867, he ordered that in public conveyances on railroads, highways, streets, and navigable waters, no differences should be made on account of color or caste, and that the common rights of all citizens should be respected. A violation of this was to be deemed a misdemeanor and to render the offender liable to arrest and trial by a military tribunal, besides such damages as might be recovered in the civil courts. General Griffin on August 22d issued a similar measure at Galveston, forbidding in the district of Texas all such distinction by railroads or other chartered companies which were common carriers.

The most common discrimination found, however, was that relating to juries. After the registration was effected it was not unusual for the commanders to direct that jurors and voters should be practically synonymous. Thus General Canby in September, 1867, issued an order that all citizens assessed for taxes and who were qualified and registered voters should be deemed qualified to serve as jurors. In the third district it was ordered in August, 1867, that the jurors should be taken exclusively from the list of voters as registered, without discrimination. Sheriffs must

require jurors to swear that they had been registered, and this was to apply even to jurors already drawn. In the fifth district as early as April General Griffin directed that no person should be eligible to serve as juror unless he had taken the test oath of July 2, 1862. He declared that he did not undertake to prescribe whether a juror should be white or black, but only to prevent juries from being secessionists or hostile toward Union citizens, who from all parts of the State were applying to him for protection. On May 30, 1867, it was ordered that all citizens who had paid taxes assessed for the current year were qualified to be jurors, and juries were thereafter to be drawn only from such persons, although this was suspended as to the superior and county courts of North Carolina, because they were unable to revise the jury list. After the registration was accomplished, it was directed in Texas as elsewhere that all persons registered should be eligible as jurors.

It was in connection with this subject that General Hancock declared that "The true and proper use of military power, besides defending the national honor against foreign nations, is to uphold the laws and civil government, and to secure to every person residing among us the enjoyment of life, liberty and property. . . .

"To determine who shall and who shall not be jurors appertains to the legislative power; and until the laws in existence regulating this subject shall be amended or changed by that department of civil government, which the constitutions of all the States under our republican system vest with that power, it is deemed best to carry out the will of the people as expressed in the last legislative act. . . .

"The qualification of a juror under the law is a proper subject for the decision of the courts. The commanding general, in the discharge of the trust reposed in him, will maintain the just power of the judiciary, and is unwilling to permit the civil authorities and laws to be embarrassed by military interference; and as it is an established fact that the administration of justice in the ordinary tribunals is

greatly embarrassed by the operations of Paragraph No. 2, Special Orders No. 125, current series, from these headquarters, it is ordered that said paragraph, . . . be, and the same is hereby, revoked, and that the trial by jury be henceforth regulated and controlled by the Constitution and civil laws, without regard to any military orders heretofore issued from these headquarters."

The matter of juries brings with it that of courts, and there was no more frequent subject of interposition than securing to the negroes equal rights in the courts. Thus in Virginia on May 28, 1867, it was announced that where civil authorities failed to give adequate protection to all persons in their rights of property, military commissions would be appointed, although civil courts were to be preferred where there was satisfactory reason to believe that justice would be done. In the Carolinas one of Sickles's first proclamations declared that it had become apparent that justice to freedmen could not be obtained in the civil courts of Edgefield and Barnwell districts and that therefore a provost court was established with jurisdiction of any case to which a person of color was a party, excepting murder, arson and rape. No sentence of such court, however, affecting the liberty of any person, was to be executed until approved by the commanding general. Thus in August, 1867, the finding of a court-martial which fined a steamer captain two hundred and fifty dollars for refusing a first-class ticket to a person of color was confirmed. It was declared "so long as the laws imposed civil and political disabilities because of servitude or color, carriers were permitted to enforce the same discrimination among passengers. Such disabilities and usages have ceased, with slavery, to have any legal sanction. Whatever belongs of common right to citizens, necessarily follows the recognition of the blacks as citizens, and belongs to them." Thus, too, courts were directed to dismiss proceedings under the recent North Carolina legislation for the relief of executors, because it sanctioned acts in aid of the late rebellion.

In the third district civil courts were directed not to entertain any action against officers, soldiers or others for acts performed in accordance with the orders of military authorities. General Meade somewhat later issued an order instructing the military to coöperate with the civil authorities in detecting and capturing criminals, but stated that where the civil courts failed to do their duty prompt action would be taken for the punishment of criminals and also for the removal of officers.

In the fourth district it was provided that where a person indicted for a criminal offense could prove by two credible witnesses that he was a loyal man during the rebellion and on that account could not get a fair and impartial trial by jury, the hands of the court were to be stayed and the papers transmitted to headquarters. By December, however, it was declared that boards of arbitration for the protection of laborers would be appointed only where the laborer complained that his compensation was wrongfully withheld or creditors complained that he was allowed too much. Next month there was restored to the civil courts of Mississippi jurisdiction of horse-stealing and the like, although if it should appear that the defendant could not obtain an impartial trial by reason of race or political sentiments, the jurisdiction should still remain with the military. From January, 1868, however, all questions as to settlement of crops and the relation of debtor and creditor in Mississippi were to be left to the proper civil courts, excepting cases affecting the rights of freedmen or others which by acts of Congress were especially committed to the Freedmen's Bureau. In the succeeding April jurisdiction as to carrying concealed weapons was likewise remitted to the civil courts.

In Texas, General Griffin ordered that "jurisdiction of offences might be taken and offenders tried by the local civil tribunals, but where it is evident that local civil courts will not impartially try cases brought before them and render decisions according to law and evidence, the immediate military commander will arrest or cause the arrest of the

offenders or criminals, and hold them in confinement, presenting their cases in writing, with all the facts, to these headquarters, with a view to the said parties being brought before and tried by a military commission or tribunal." Apparently the first military commission was one appointed by Sheridan about the 12th of April for "the trial of one Walker and such other persons as may be brought before it."

The contention of the southern people that the negroes were disorderly and should be under control was after a while admitted by some of the military commanders. In November, 1867, papers complaining of combinations by the blacks to seize lands were referred to General Ord, who directed General Gillem to find out what white men had been advising the freedmen to take such steps, and to instruct the leading freedmen that Congress had no intention to divide up the land. Gillem was ordered to arrest all incendiaries, and Governor Humphreys followed in the next month with a proclamation which recited that "Whereas communications have been received at this office, from gentlemen of high official and social position in different portions of the State, expressing serious apprehensions that combinations and conspiracies are being formed among the blacks, to seize the lands and establish farms, expecting and hoping that Congress will arrange a plan of division and distribution, but unless this is done by January next, they will proceed to help themselves, and are determined to go to war, and are confident that they will be victors in any conflict with the whites, . . .

"Now, therefore, I, . . . do issue this my proclamation, admonishing the black race, that if any such hopes or expectations are entertained, you have been grossly deceived, and if any combinations or conspiracies have been formed, to carry into effect such purposes by lawless violence, I now warn you that you cannot succeed."

This was followed by an admonition to the whites that "as they prized constitutional liberty for themselves, they must accord to the black race the full measure of their

rights, privileges, and liberties secured to them by the Constitution and laws of the land; that they must deal justly with the blacks, and in no case undertake to redress wrongs, except in the mode and manner authorized by law."

Somewhat later in the same month of December, Ord directed that all freedmen who were able should be required to earn their support during the ensuing year. Following up the line of policy of the Mississippi legislation, he declared that those who could work but would not should be liable to arrest as vagrants. It was in this connection that it was found expedient to restore the jurisdiction of civil courts in Mississippi.

The stay laws were evidences of a benevolent oversight of private matters, and an even more striking instance is found in the provisions on the subject of the manufacture of whiskey. Thus in the second district in May, 1867, it was provided that all contracts for the manufacture, sale, transportation, storage or insurance of intoxicating liquors were to be treated as against public policy, mainly for the reason that in a bad season the grain from which the whiskey was made was needed for food and seed purposes. This had the good effect of contracting the use of liquor by the blacks, a result emphasized by later dispensary and local option laws. Such regulation of local traffic was not confined to the Carolinas.

An interesting feature of military rule was the attempt to regulate the press. The use of official advertising for this purpose has been tried before and since, but the military commanders found considerable difficulty in confining their patronage to strictly loyal publishers; for the journals of the day reflected the feelings of the day. In August, 1867, it was ordered in the third district that all advertisements, whether under State or municipal authority, should be made only in such newspapers as did not oppose reconstruction under the acts of Congress and did not attempt to obstruct the civil officers appointed by military authority. In the succeeding February, however, the exclusion was modified so as to apply only to such as attempted to obstruct in any

manner such officers by threats of violence when military protection was withdrawn. The assassination at Columbus, Georgia, of a member of the late constitutional convention led General Meade in April, 1868, to warn persons against publishing articles emanating from "a secret organization for no good purpose, which seems to be rapidly spreading through these States." Such publications were prohibited and organization of patrols by military and municipal officers was ordered to detect such offenses. This, however, was comparatively late in reconstruction.

An anomalous feature of this anomalous period was that statutes designed to continue military government were from the very fact that they were statutes subject to criticism and construction by a civil officer, the United States attorney general. Delicate questions arose all the time and Attorney General Stanbery was kept busy instructing the several district commanders, who did not always yield gracefully.

The Thirty-ninth Congress through its fixed distrust of the president provided that succeeding Congresses should meet immediately at the expiration of the term of their predecessors, and thus the Fortieth assembled immediately after the adjournment of the Thirty-ninth, and this with the express intention of keeping an eye on the president's administration of reconstruction. The Fortieth Congress, sharing this distrust of the president, adjourned only from time to time and thus were able by fresh legislation to meet the criticism of the attorney general. On July 19th, Congress passed over the president's veto a second supplementary reconstruction act, protecting the district commanders against the attorney general. In Section 1 it was declared that the true intent and meaning of these acts was that the eleven Southern States had not legal governments and that those "governments if continued were to be subject in all respects to the military commanders in the respective districts and to the paramount authority of Congress." As to removals, the commander of any district had the power, "subject to the disapproval of the general of the army of the

United States, and to have effect until disapproved, whenever in the opinion of such commander the proper administration of said act shall require it, to suspend or remove from office, or from the performance of official duties and the exercise of official powers, any officer or person . . . and upon such suspension or removal such commander, subject to the disapproval of the general aforesaid, shall have power to provide from time to time for the performance of the said duties of such officer or person so suspended or removed, by the detail of some competent officer or soldier of the army, or by the appointment of some other person, to perform the same, and to fill vacancies occasioned by death, resignation or otherwise," and the general was given similar powers. To make assurance doubly sure, the acts of the army officers already done in the way of removing and appointing civil officers were confirmed, and it was made the duty "of such commander to remove from office as aforesaid all persons who are disloyal to the government of the United States, or who use their official influence in any manner to hinder, delay, prevent, or obstruct the due and proper administration of this act or the acts to which it is supplementary."

The subsequent sections provided further details as to registration for election, but it was also provided that the commanders and appointees were not to be bound in their action by the opinion of any civil officer of the United States, —thus directly destroying the supervising power of the attorney general. By way of providing for contingencies which had not been thought of, it was declared in the last section of the act "that all the provisions of this act and of the act to which this is supplementary shall be construed liberally, to the end that all intents thereof may be fully and perfectly carried out."

This was the last shot of Congress and it was effective. Thence onward there could be no interference by the attorney general or any other civil officer. The district commanders were left to their own judgment except so far as

they should be supervised by General Grant. Grant was a silent man, seldom interfering with others, and as a rule he left the district commanders to pursue their own course. There could be no doubt, however, that he himself had receded from the generous position taken at Lee's surrender and was now inclined to the forcible reconstruction designed by Congress.

From now on there was little opposition to the enforcement of military administration. The president on August 5, 1867, demanded the resignation of Secretary Stanton, and Stanton promptly declined, with the result that he was suspended and General Grant occupied the place as secretary for the time being. Later in the month the president adopted the suggestion made earlier by Attorney General Stanbery and removed Sickles, appointing Canby in his place. There had been even more complaint against Sheridan's conduct in the Southwest, and the propriety of removing him also occurred to the president. Sheridan, however, had been an active officer under Grant, and the general-in-chief advised against the removal of his subordinate. It was, however, of no effect, and the president assigned Sheridan to duty elsewhere and appointed Hancock in his place. Other changes were made somewhat later, as when Meade succeeded Pope and McDowell relieved Ord during the course of the winter; but none of the others had the significance which marked the appointment of Hancock.

As soon as Hancock assumed charge, he issued an order in the shape of General Orders No. 40 which became famous. The main provisions were as follows:

"The general commanding is gratified to learn that peace and quiet reign in this department. It will be his purpose to preserve this condition of things. As a means to this great end, he regards the maintenance of the civil authorities in the faithful execution of the laws as the most efficient, under existing circumstances.

"In war it is indispensable to repel by force, and overthrow and destroy opposition to lawful authority. But

when insurrectionary force has been overthrown and peace established, and the civil authorities are ready and willing to perform their duties, the military power should cease to lead, and the civil administration resume its natural and rightful dominion. Solemnly impressed with these views, the general announces that the great principles of American liberty still are the lawful inheritance of this people and ever should be."

On the first of January ensuing he issued a further order to the effect that the commanding general had no arbitrary authority in purely civil controversies, and declaring that the administration of civil justice appertained to the regular courts only. "The rights of litigants do not depend on the views of the general. They are to be adjudged and settled according to the laws. Arbitrary power, such as he has been urged to assume has no existence here. It is not found in the laws of Louisiana or Texas. It cannot be derived from any act or acts of Congress. It is restrained by a constitution, and prohibited from action in many particulars." At the end of each of these orders, however, he made it clear that all must understand that armed insurrection or forcible resistance to the law would be instantly suppressed by arms.

While the other commanders did not in so many words accede to this policy, Hancock's views undoubtedly had weight elsewhere than in his district. Chief Justice Chase had shown his opinion of the military code enforced by Sickles, and the objections to the reconstruction acts were so weighty that endeavors were made to secure a ruling by the United States courts upon their constitutionality. The basis was found in the *Milligan* case, decided during the war, when the Supreme Court there held that martial law did not obtain in loyal States and that therefore a sentence by a military commission in Indiana was illegal. Immediately after the war the matter came up in a somewhat different shape when A. H. Garland, of Arkansas, an old practitioner, who had received a full pardon from President Johnson, claimed the right to practise in the Supreme Court

without taking the test oath of 1862. That court promptly decided not only that the right could not be taken from him by *ex post facto* legislation, but that this legislation was inapplicable in the face of the president's pardon.

If President Johnson's procedure in restoration of the South was legal, it seemed therefore that its overthrow by congressional action must be illegal, and eminent lawyers considered that the Supreme Court would so hold upon a proper case. The State of Mississippi therefore undertook such a proceeding in the Federal court against President Johnson, seeking to have him enjoined from carrying out these laws. Attorney General Stanbery resisted on the ground that the matter involved was purely political, and that of such questions the Supreme Court had no jurisdiction. On April 15, 1867, the court declined jurisdiction, holding that the government was divided into three coördinate departments, no one of which could interfere with the others. The State of Georgia about the same time undertook a somewhat similar suit against Secretary Stanton, thus avoiding the defect in the Mississippi proceeding, but in May, 1867, the Supreme Court declined to entertain it, for to the mind of the court the substitution of secretary for president made no difference in the principle involved.

This, however, did not exhaust the possibilities of the situation. A Mississippi editor named McCardle was imprisoned for editorials opposed to the reconstruction policy, and was tried and convicted before a military commission. He sought *habeas corpus* before a Federal tribunal and the matter was appealed to the Supreme Court. The case was argued on January 31, 1868, and attracted considerable attention, which was redoubled when the Supreme Court a week later decided that it had jurisdiction and would inquire into the matter. If it should overturn military commissions, even without attacking the rest of reconstruction, the injury would be irremediable, for effective means of carrying out that policy would be lost. Consultations were therefore held among Republican leaders and

a bill was hurried through both houses taking away the jurisdiction of the Supreme Court over appeals on *habeas corpus* in such cases. This became a law March 27, 1868, and, when it was called to the attention of the Supreme Court during the next year, that tribunal held that its jurisdiction in the *McCardle* case had been taken away, and dismissed the cause. The reconstruction legislation, therefore, had weathered all attacks upon it from the legal side.

Military rule under the reconstruction acts was an anomaly in American history, yet the military control of the South was complete. It cannot be said that society was dissolved into its elements, for the family, the church, and industry were not greatly disturbed. Indeed the object of the new policy was to preserve these until a new State government could be organized which would allow them to develop in what were deemed more suitable forms. But if it was only the government which on the face of it was affected, this itself meant much. Thus, we have seen that the police administration required close attention, and the supervision of the State officials had political effects at the North as well as at the South. Taxation was administered from a new point of view, if not entirely remodelled, and the dealings of the military with the press, the Fourth Estate, are full of instruction. Even social affairs were not left untouched, for whatever looked like discrimination between the two races was drawn within the scope of the military. Not only was the district commander an executive, but he was the source of justice and administered a judicial system. Nor did the system stop even here, for he also exercised legislative power. Sickles was the only one who ordained a consistent code, but something was attempted everywhere. All the commanders ordained public and private laws.

The administration was upon the whole successful. It had maintained order and brought the civil officials to recognize the civil equality of the races. Indeed the lesson was so thoroughly learned that only twenty thousand troops were necessary throughout the whole extent of the South, and

of these there were one thousand at Richmond and New Orleans and seven thousand near the Texan border. The presence of the blue uniform was itself sufficient to produce quiet.

There was great dissatisfaction throughout the South, but this was to be expected. The high spirit of the people who had fought bravely for four years could not be expected to accept gracefully after the return of peace a second overthrow of what they deemed their constitutional governments. It could not be said that taken as a whole the military administration had not been fair. Some of the commanders were general favorites in their districts, and looking back dispassionately there is little doubt that all exercised their powers for what they deemed the public good. In the fifth district was the greatest contrast, for there on the one hand Sheridan had called the people banditti and on the other Hancock later laid down rules as to the relation of civil and military authorities which could be well regarded as based on solid principles. A striking feature of the time was the failure of every attempt to break the military power. The criticisms of the Federal attorney general were overcome by new acts of Congress, and cases testing the constitutionality of the law were after full argument dismissed even by the Supreme Court. Every constitutional division of authority was abolished for the time being and the headquarters of the district commanders became and remained the real seat of government. The only modification of military authority was when the chief justice compelled respect for process of the Federal courts and the voluntary declarations of Hancock made the military in one district subsidiary and not supreme over civil government. That Anglo-Saxons chafed under this dispensation was inevitable. Pride of race and love of liberty were as strong in Carolina as in Massachusetts.

The benevolent despotism, however, was not intended to be permanent. Its aim was but to reduce all classes and races to a common level until, man being a political creature,

a new civil organization should be evolved. The registration of voters, which was to effect this, was carried on at the same time as the police administration, and will deserve even more careful consideration. By the spring of 1868 this military rule, a strange eventful episode in history, drew to a close.

CHAPTER X

POLITICAL RECONSTRUCTION AT THE SOUTH

MILITARY rule was designed to control or administer government at the South until the political reconstruction planned by Congress should become effective. It might be compared to the enveloping snow of winter, under whose protection vegetation is preserved and prepared for the outburst of spring. The military, however, was more than a protection, and perhaps the better figure would be that of a crucible into which different elements were poured and from which they should come out a new substance.

The reconstruction plan, as we have seen, required several steps. The first was the registration of all men, white or black, with exception of most ex-Confederates. The second was the decision by this new electorate of the question of making a new constitution; and the next would be the assembling of the constitutional convention and the framing of that instrument. To avoid criticism such as had been made as to popular endorsement of the work of secession conventions, the constitution as framed was to be submitted to the electorate, as well as to Congress, for their respective approvals. Even after the ratification by Congress and the people, there was yet the further step of ratification of the Fourteenth Amendment by the legislature chosen under the new constitution.

The first was that of registration. This was not required in the original reconstruction act, but three weeks later an amendment made provision for such enrollment.

The act of 1864 had directed that it should be done by United States marshals, but now boards of registration were to be appointed, consisting each of three loyal persons, white or black, who like all other officers, were to take the ironclad oath of 1862. The term of registration could, at the option of the district commanders, be extended to October 1st, and even after the work was finished it was the duty of the commanders upon reasonable public notice to revise the lists by striking out such as were not entitled to vote and adding others who were. A significant provision was that executive pardon or amnesty should not entitle a person to register who could not do so without it.

The electors should include all who could take the following stringent oath: "I, ———, do solemnly swear (or affirm), in the presence of Almighty God, that I am a citizen of the State of ———; that I have resided in said State for——months next preceding this day, and now reside in the county of ———, or the parish of ———, in said State (as the case may be); that I am twenty-one years old; that I have not been disfranchised for participation in any rebellion or civil war against the United States, nor for felony committed against the laws of any State or of the United States; that I have never been a member of any State legislature, nor held any executive or judicial office in any State and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I have never taken an oath as a member of Congress of the United States, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I will faithfully support the Constitution and obey the laws of the United States, and will, to the best of my ability encourage others so to do, so help me God." There were many white men who could not take this oath.

The ultimate object of the reconstruction policy was to secure the equality of all men, white or black, before the law, and the means employed was universal suffrage. This would have a double effect, for it concerned not only the State and local affairs but Federal elections as well. Even with such men as Sumner the incidental result of creating a Union party in the Southern States, which in alliance with the Republicans of the North would retain control of the national government, was not overlooked. The way to make these things permanent was to put them in a new State constitution and to enforce the adoption of the Fourteenth Amendment by a legislature elected under that constitution. While, therefore, the preservation of order and industry by military supervision of State administration was important, the main duty of the district commanders was to see to this registration and the resulting election for constitutional conventions.

Questions constantly arose during the registration and the act of July 19, 1867, was designed to meet them. Thus the attorney general held that the oath of the person desiring to register was conclusive, and therefore the new act made it the duty of the boards to go behind the oath and upon such facts or information as they could obtain determine whether a person was entitled. It went on also to define the true intent and meaning of the oath to be among other things "that no person who has been a member of the legislature of any State, or who has held any executive or judicial office in any State, whether he has taken an oath to support the Constitution of the United States or not, and whether he was holding such office at the commencement of the rebellion, or had held it before, and who had afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof, is entitled to be registered or to vote; and the words 'executive or judicial office in any State' in said oath mentioned shall be construed to include all civil offices."

After the completion of the registration, thirty days' notice was to be given of an election to decide as to a constitutional convention. The election should be by ballot on which should be written or printed "for a convention" or "against a convention", and the delegates to be chosen should be the same in number as the lower house of the legislature in 1860. The persons appointed to superintend the election should count and make return to the commanding officer, and he was to declare the result.

Should a majority of the votes be against a convention, none should be held. If the result of the election was in favor of a convention, the commanding general should within sixty days notify the delegates to assemble. General expenses would be paid out of any money in the Federal treasury not otherwise appropriated, but the convention should provide compensation for themselves and all officers by levy and collection of taxes. If the constitution was ratified by popular vote, return should be made to the president, who should transmit the same to Congress.

As it turned out, all the new electorates in the South voted for a convention, and then came the sessions and proceedings of these bodies. It will be more convenient, therefore, to consider consecutively in regard to each State the election for the convention, the proceedings of the convention, and the subsequent election on the subject of ratification.

The first election to decide whether or not a constitutional convention should be held was in Louisiana, beginning on September 27, 1867; and in Alabama, Virginia and Georgia during October, and in Arkansas, Mississippi and Florida during the next month. It was estimated that while at the North there were eighty-four white voters to each negro, at the South there was one negro to every two whites, and in South Carolina, Louisiana and in Mississippi the negroes might be found in the majority. The situation was therefore a serious one from the point of view of the whites, but the views of some of the district commanders reflected the extreme negro suffrage sentiment of the North. As

Alabama held the first convention, the conditions there will be taken up first, and it was of the negroes in the district embracing this State that Pope wrote Grant that "it may be safely said that the marvellous progress made in the education of these people, aided by the noble charitable contributions of northern societies and individuals, finds no parallel in the history of mankind. If continued, it must be by the same means, and if the masses of the white people exhibit the same indisposition to be educated that they do now, five years will have transferred intelligence and education, so far as the masses are concerned, to the colored people of this district."

The attitude of the whites toward the new measures was at first uncertain. As early as April, 1867, A. G. Brown, once United States senator from Mississippi, advocated carrying out the reconstruction plan so as to secure good government, and as clear headed a man as the South possessed, John A. Campbell, of Alabama, a former justice of the United States Supreme Court, wrote to the same effect in a letter which secured wide publicity. Even Governor Patton in course of time became favorable to reconstruction, and newspapers inclined the same way, not from approval of the policy, but because it seemed the best that could be done.

The feeling between the races was kindly. The whites exhibited great interest in the welfare, political and social, of their former slaves. The practical operations of the Freedmen's Bureau and the Union Leagues, however, soon caused a reaction. These agencies acted on the theory that the negro was the special ward of the Federal government and they purposely created a breach between him and his late master. The demand for separation in the church and yet for amalgamation socially came from the negroes themselves, instigated by these northern emissaries. The result was a reaction from the views of men like Campbell.

This new attitude of the whites in Alabama found expression in James H. Clanton, a brave Confederate general and a magnetic leader. He had been originally a Whig, but

now realized that it was a race and not a political question confronting the South. In the early part of May, 1867, Senator Henry Wilson, from Massachusetts, made an address in Montgomery at the capitol, the first seat of the Confederate government, and argued that the negroes should act together and follow Republican leaders. General Clanton replied that Wilson's plan would lead to the prevalence of a political party made up of negroes and controlled by aliens, when the true interest of the negroes themselves demanded that they should act with the white people of the State. A few days later Judge Kelly, of Pennsylvania, made an address at Mobile somewhat similar to Wilson's, but unfortunately a riot was precipitated. It was shortly after these addresses that the Montgomery council of the Union League, of which General Wager Swayne was a member, resolved "that the Union League is the right arm of the Union Republican party of the United States, and that no man should be initiated into the League who does not heartily endorse the principles and policy of the Union Republican party."

Such was the situation when Pope on May 21st ordered the registration of voters in Alabama. There were forty-two districts, and Swayne appointed for each three Republican registrars, some being negroes sent from headquarters at Montgomery for the double purpose of registering by day and organizing Union Leagues by night. The result was that 165,813 were registered, of whom 104,518 were negroes.

In July Clanton called a convention of the Conservative party, which met at Montgomery September 4th. Some negroes contemplated breaking it up, but leading colored men formed themselves into "a special committee on the situation", and the convention held its meeting without knowing its danger. Among its resolutions were some deprecating efforts to array the races in opposition and favoring the education of the negro.

On August 31st Pope ordered the election for delegates and the voting began October 1st, lasting three days. The

returns showed that 90,283 men, of whom 18,553 were white, voted for a convention, and it was carried.

The convention met in the capitol at Montgomery on November 5, 1867, and was composed of both white and negro delegates. Of the one hundred members four were Conservatives and the rest Radicals, of whom eighteen came from the Freedmen's Bureau, and eighteen were negroes. At least thirty-seven members were from Massachusetts, New York, and other northern States, and the native whites were men who had never been known in public life. Thirteen members had certified to their own election, several had never seen the counties which they represented. Two of the negroes could write well, half could not write at all, and the remainder had been taught to sign their names. The temporary officers selected were all late immigrants from the North, but the permanent chairman, E. W. Peck, of New York, a man of high character, had for a short time resided in Alabama. Of the negro members several were field hands from the country, one was a Mobile editor, another a Mobile barber, and one a carriage driver. Different nicknames were given to the convention, such as Black and Tan, but Black Crook, possibly the favorite name, originated with a correspondent of the New York *Herald*.

The proceedings, as might be expected, often showed a radical tendency. An attempt was made by Caraway, a negro from Mobile, to prevent anyone from acting as chaplain who had not always been loyal to the United States, but finally the president was authorized to select ministers from day to day. There was occasionally a negro chaplain, and on a certain occasion one invoked "divine blessing on Unioners and cusses on rebels." The galleries of the convention were open to the "ladies of the colored members" and they were invited to be present.

The president draped his chair with two Federal flags, and Pope, Swayne and Patton were invited to seats and asked to address the body. One of the first actions of the convention was to prescribe its own compensation, which

was ten dollars a day to the presiding officer and eight dollars to the other members, besides forty cents mileage. This was finally paid by the order of General Pope, the members being unwilling to take the State, or Patton, money. When told that this scrip was receivable for taxes, one member replied that it would do no good as they had no taxes to pay. Keffer, of Pennsylvania, was the author of a resolution, which was carried, to change the names of counties which had been "named in honor of rebellion and in glorification of traitors," and some established by the Johnson government were abolished.

The race question came before the convention in a number of ways. Thus an ordinance was adopted by a decided majority authorizing the negroes to collect pay at the rate of ten dollars a month from the date of the Emancipation Proclamation until May 20, 1865. When the question of marriage was considered, the native whites, or scalawags, as they began to be called, opposed intermarriage of the races, and one of them reported a prohibitory ordinance on the subject, which the negroes and northern members, however, voted down by a decided majority. The impression of some, Caraway for example, was that the Civil Rights act prohibited any ordinance adverse to intermarriage, and Gregory, the barber, was in favor of intermarriage. The subject, however, was finally left open. The convention of 1865 had legalized as marriages the unions then existing, but the negroes had found this burdensome, as many were subject to prosecutions for bigamy committed since that time. The present convention, therefore, ordained that marriages were to date from November 30, 1867, and prosecutions for intermediate offenses were thus prohibited.

In furtherance of the tendency, already strongly developed, to divide the churches by race, Caraway's ordinance was adopted providing that church property used by negroes during slavery should be turned over to the existing colored congregations. The question of separate schools was not decided, although the prevailing opinion seemed to be

adverse. The northern members were in favor of mixed schools, but some of the blacks seemed opposed. Semple's ordinance, requiring equal but separate accommodations in public places, was voted down, and the subject left undecided. As a rule, the negroes made no unreasonable demand except when instigated by the northern members, who in general were more extreme as to social equality than the native whites.

The principal subject of debate was on suffrage, which almost led to a disruption of the radical party. Instructions had to be sought and received from Washington. Pope was uneasy over the possible action of the convention, and Horace Greeley and Senator Wilson both advised moderation. The provisions finally adopted as to the franchise were embraced in Article VII of the new constitution as follows:

"2. Every male person, born in the United States, and every male person who has been naturalized, or who has legally declared his intention to become a citizen of the United States, twenty-one years old or upward, who shall have resided in this State six months next preceding the election, and three months in the county in which he offers to vote, except as hereinafter provided, shall be deemed an elector. . . .

"3. It shall be the duty of the General Assembly to provide, from time to time, for the registration of all electors; but the following classes of persons shall not be permitted to register, vote, or hold office: 1st. Those who, during the late rebellion, inflicted, or caused to be inflicted, any cruel or unusual punishment upon any soldier, sailor, marine, employee or citizen of the United States, or who, in any other way, violated the rules of civilized warfare. 2d. Those who may be disqualified from holding office by the proposed amendment to the Constitution of the United States, known as 'Article XIV', and those who have been disqualified from registering to vote for delegates to the Convention to frame a Constitution for the State of Alabama, under the act of

Congress . . . except such persons as aided in the reconstruction proposed by Congress, and accept the political equality of all men before the law; Provided, That the General Assembly shall have power to remove the disabilities incurred under this clause. . . .

"4. All persons, before registering, must take and subscribe the following oath: I, ———, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of the State of Alabama; that I am not excluded from registering by any of the clauses in Section 3, Article VII, of the Constitution of the State of Alabama; that I will never countenance or aid in the secession of this State from the United States; that I accept the civil and political equality of all men; and agree not to attempt to deprive any person or persons, on account of race, color, or previous condition, of any political or civil right, privilege, or immunity, enjoyed by any other class of men; and furthermore, that I will not in any way injure, or countenance in others any attempt to injure any person or persons, on account of the past or present support of the government of the United States, the laws of the United States, or the principle of the political or civil equality of all men, or for affiliation with any political party."

The convention was not satisfied with making a constitution proper, but went on to legislate. It created a new militia system and gave most of the companies to the black counties. Stay laws were enacted, exemptions enlarged, and contracts during the war, notes payable in Confederate money and debts for slaves, were made voidable at the option of either party. Settlements of trust estates could be reopened, judicial decisions in aid of rebellion were annulled, and defendants in civil cases of war time declared entitled to a new trial.

Memorials were adopted asking repeal of the cotton tax, which amounted to twenty per cent of the gross value of the crop and affected the negroes in particular, and that the

law be changed which required a majority of the registered voters to act on the adoption of the constitution. An ordinance was passed providing fine and imprisonment for exercising improper influence over negro voters, and it was ordained that all State and county officers and members of Congress be elected at the same time as the election on the constitution. The object of this was to bring out a full vote.

The constitution was finally adopted in the convention by a vote of 66 to 8, with 26 not voting. Just before adjournment, a resolution by Caraway was adopted to the effect that the constitution was just and that those who would oppose it were enemies to law and order. Caraway declared that he was satisfied God would assist those who did right and he desired a day set apart upon which the good and loyal people could offer their "adoration to Almighty God, and invoke His aid and assistance to the loyal people of the State while passing through the bitter strife that seems to await them."

Some effort was made to have the State election at a different time from that on ratification of the constitution, and Meade favored this separation. He was overruled by Grant, however, and the two were held at once.

Thirteen members of the convention issued an address December 10th protesting against the proposed constitution because it tended to the abasement and degradation of the white population of the State, authorized mixed schools, and because the convention had refused to prohibit the intermarriage of the races. The effect of this proposed constitution upon the State was depressing. When such advertisements were published as that the Emperor of Brazil had made a contract for the importation of one thousand families per annum, many white men abandoned their homes, and went to Brazil, Texas, Central and South America. Some encouragement, however, was derived from the fall elections at the North, and somewhat more was afforded by the removal of Pope in December and the departure of Swayne

shortly afterward. Meade succeeded to the command of the district.

The Radical nominations were made by the white members of the convention in what was known as the State Union League Convention. At least sixty-seven of them had signed the constitution, fifty-six were now candidates for office, one dozen were negroes, twenty-seven or more were from the North, and many were officials of the Freedmen's Bureau.

The opposing White Man's Movement, which now took definite shape, is said to have originated even prior to the convention. It was started by Alexander White and Ex-governor Parsons, but it was Parsons who sounded the keynote when in January, 1868, he offered resolutions at the Dallas County Conservative meeting declaring that American civilization and government were due to the whites alone and that the negro had never shown himself capable of directing political affairs. The active manager of the movement was James H. Clanton. It grew rapidly, as the proposed constitution drove almost all white men into the Conservative party. It was determined to register and not vote, which under the congressional act requiring a majority to vote would defeat the constitution, and the 30th day of January was set apart as a day of fasting and prayer for the deliverance of Alabama from the horrors of negro domination. Registration was attended to and watched more closely than before and the enrollment amounted to about 170,000. The election was held on February 4th and because of a storm the polls were in most places kept open until the 8th of February. The vote was 70,812 for the constitution, against it 1,005. Of the 18,000 whites who voted for the convention only five thousand now voted for the result of its work and the black vote was also less. Thirteen thousand five hundred and fifty more votes were necessary to meet the congressional requirement of a majority of the registered voters, and General Meade reported that the constitution was lost. The Conservative plan of registering and not voting had

succeeded. Many northern adventurers left the State, but on February 17th the Radical nominees met in the office of the *Sentinel* at Montgomery and organized as a legislature. Applegate as lieutenant governor called his senate to order and advocated the election of two senators to "sit upon the trial of that renegade and traitor, Andrew Johnson," claiming that General Meade would supply soldiers and Dustin would supply loyal militia. Meade, however, was unwilling and little business was transacted.

On the same day a resolution was submitted in Congress to admit Alabama and on March 10th the bill was reported to that effect, but after a lengthy debate Stevens said that he was satisfied "that to force a vote on this bill and admit the State against our own law when there is a majority of twenty odd thousand against the constitution, would not be doing such justice in legislation as will be expected by the people." The measure was withdrawn for the time, but another bill passed the House, although it was not considered in the Senate, providing for a provisional government with the rejected constitution for its fundamental law. The Conservative executive committee sent to Congress a memorial on the proposed legislation, saying that "We are beset by secret oath-bound political societies, our character and conduct are systematically misrepresented to you and in the newspapers of the North; the intelligent and impartial administration of just laws is obstructed; industry and enterprise are paralyzed by the fears of the white men and the expectation of the black that Alabama will soon be delivered over to the rule of the latter; and many of our people are, for these reasons, leaving the homes they love for other and stranger lands. Continue over us, if you will, your own rule by the sword. Send down among us honorable and upright men of your own people, of the race to which you and we belong, and, ungracious, contrary to wise policy and the institutions of the country, and tyrannous as it will be, no hand will be raised among us to resist by force their authority. But do not, we implore you, abdicate

your rule over us, by transferring us to the blighting brutality and unnatural domination of an alien and inferior race."

The dispute over the status of Alabama was forgotten for the time being, but on May 11th Stevens introduced a bill for the admission of several southern States, and despite his former declaration, including Alabama also. In the Senate there was some hesitation as to Alabama, the clause for its admission being struck out and put in alternately until finally the bill passed with Alabama included. The House concurred in some details inserted by the Senate, and this Omnibus Bill became a law. The president vetoed it but it passed over his veto June 25, 1868.

This action in effect validated the recent election, which could not be valid for one purpose and void for another, and Grant directed Meade to remove Patton and instal the candidates successful at the late election. In July, therefore, Patton was removed, William H. Smith and Applegate became governor and lieutenant governor, and the legislature met. The military authorities transferred property and archives to the new State authorities, and on July 21st the representatives were admitted to Congress, on taking the ironclad oath. Smith had once been a Douglas Democrat who had opposed secession, but later became a candidate for the Confederate Congress. A. J. Applegate, from Ohio and Wisconsin, was an illiterate Federal soldier who had taken from a lady who nursed him some valuable papers, which he compelled her to buy back. The secretary of state was from Maine, the treasurer from New York, the collector from Wisconsin, and Chief Justice Peck formerly from New York.

The successful candidates for the Senate were Willard Warner, of Ohio, and George E. Spencer, of Massachusetts, and other States. Warner had been in the Federal army and later in the Ohio State Senate, in which he had been serving until shortly before his new honor. He was one of the more respectable of the northerners who came South. Spencer had been clerk of the senate of Iowa, afterward

secretary of the governor of Nebraska, from which State he joined the Federal army as sutler, and then joined the Union Alabama cavalry. Of the representatives, F. W. Kellogg had been a congressman from Michigan and in 1865 the collector of internal revenue at Mobile; C. W. Buckley, a Presbyterian preacher who had come to Alabama as chaplain of a negro regiment, after which he was a Freedmen's Bureau official; D. W. Norris, from Maine, a contractor and paymaster during the war, after which he was bureau agent; C. W. Pierce, from Massachusetts and Illinois and a bureau official; John B. Callis, once in the Federal army, from Wisconsin, later a bureau agent, and, when elected, stationed in Mississippi; and Thomas Haughey, alternately a Confederate recruiting officer and a Union sergeant.

Alabama, therefore, was thoroughly reconstructed. The procedure as to registration, election, convention, approval by people and Congress, and the ratification of the Fourteenth Amendment has been given at greater length as to this, the first State to act, than will be necessary for the others, for except in names and dates there was no great difference between the States. What was true of one was generally true of all except as to details. We will therefore consider the others more briefly.

The history of Louisiana has always read like a romance. The very land differs from all other in the United States. It is practically but a filled up estuary of the great Mississippi River, with beds of fertile alluvial soil in all directions. Often the land is below the level of the streams and has to be protected from inundation by levees, painfully built and guarded, sometimes night and day. The people likewise differ from those of any other State. There are many Anglo-Saxons, but the foundation element throughout is French. The origin goes back to La Salle and Iberville, although its actual settlement and cultivation were nearer the middle of the eighteenth century. It was subject to Spain, but the Gallic strain has always been uppermost.

Elsewhere in the world the French have been leaders rather than colonists, directing or modifying a civilization rather than founding new States of their own; but it was not thus here or in Lower Canada, and these two extremes of climate, soil and product retained many resemblances. The grain and skins of Canada are contrasted with the sugar and rice of Louisiana; but the Gallic temperament, the Catholic devotion united with love of pleasure, the loyalty to leaders, and withal a restlessness which often evolves a revolution, are the same in both parts of America and recall old France.

The resemblance to France is striking in another respect. There is a proverb that when one says Paris he says France; and almost the same is true of New Orleans and Louisiana. The city dominates the State. To the Louisianian there is but one city, the capital, political and commercial, and what happened in the town was accepted as the result the State over.

We will recall that it was in New Orleans and the surrounding territory that President Lincoln put in force his plan of reconstruction during the war, with a suggestion that the more intelligent of the negroes, particularly the ex-Union soldiers, might be given the franchise. The convention of the day did not do this, but at all events it made a constitution which was satisfactory to the great president, although it did not secure the admission into Congress of representatives from Louisiana. The provisional governor, Wells, carried out Johnson's plan of restoration, and so at the time of the reconstruction laws of 1867 the State was under its own government again. We have noted how the determined Sheridan overrode State laws and State officials, removing the latter, from governor to police, at will, receding in only one instance, when he found his new levee commissioners were about to permit an overflow. We remember, too, how General Hancock restored the principles of civil government and a new epoch was thought to date from his arrival.

Even earlier, there had been promise of future trouble. On intimation from Washington that Congress did not agree with the president in his method of reconstruction, members of the war convention reassembled secretly, without call of any proper officials, and in the Mechanics' Institute at New Orleans concocted a new constitution, which was published and forced upon an astonished State. Nowhere out of Paris can a coming revolution be felt quivering in the air as in New Orleans. Forthwith came the vengeance of a deceived people, which broke up that assemblage and shocked the Union.

The president of the registration board was S. B. Packard, who like others used his position as a stepping-stone to better offices. General Hancock undertook to control Packard and arrested him, but Grant interfered, for Grant was becoming more and more radical in his actions. The result of registration showed 45,218 whites, which was probably two-thirds of the correct number, while the negroes amounted to 84,436, which was one vote out of every four of their race. In New Orleans, for instance, out of 50,000 negroes fifteen thousand were registered, say thirty per cent, while of the one hundred and forty thousand whites there were but little over ten per cent.

In the total registration the blacks exceeded the whites two to one. The election of September 27th was almost unanimous for a convention, and a majority of this body, which met at New Orleans on November 23d, were negroes. Provisions were adopted throwing the right of suffrage and office open to both races. The election did not occur until April 14, 1868, when the constitution was adopted. The legislature chosen at the same time promptly undid the work of its predecessor and on July 9, 1868, ratified the proposed Fourteenth Amendment.

Turning now to North Carolina, we come to a State which in its extensive mountain districts had a strong Union element. Reconstruction, therefore, should have a fair field. Boards for registration were now duly appointed in different

localities and these proceeded with all reasonable dispatch, with the result that the registration showed 103,060 whites and 71,657 negroes, 174,717 in all. The military prescribed time and place of voting and elections were held with no unusual disturbance, although some of the precinct officers were themselves candidates and many of the negro officials could neither read nor write. The returns were not examined in public but sealed up and sent to headquarters in another State, and, after secret canvass there, the result was made known. A convention had been declared for and of the members one hundred and ten were Republicans and only ten Democrats. Of the Republicans thirteen were negroes, eight strangers from the North, and the remainder disaffected whites, generally without property.

In January, 1868, the convention met at Raleigh and proceeded to form a new constitution. The tendency was to discard ante-bellum institutions, and the convention took as models the constitutions of such northern States as Ohio and Illinois. As adopted by the convention on March 16, 1868, the constitution provided in Section four that the State should ever remain a member of the American Union, that the people were a part of the American Nation, and that there was no right to secede. In Section five it was declared that every citizen owed paramount allegiance to the Constitution and Government of the United States. In Section six all debts before and since the rebellion were to be regarded as inviolable, but any obligation, express or implied, in aid of the rebellion or for slaves was not to be assumed or paid. These points had been already settled in principle in the constitution of 1865, and the chief new feature was that defining the qualifications of voters. As to these, "Every male person born in the United States, and every male person who has been naturalized, twenty-one years old or upward, who shall have resided in this State twelve months next preceding the election, and thirty days in the county in which he offers to vote, shall be deemed an elector.

Every voter, except as hereinafter provided, shall be eligible to office."

A uniform system of public schools was to be established, free to all children of the State between six and twenty-one years of age, and the university should be in inseparable connection therewith. The old custom of duelling was prohibited, and the new practice of exemptions secured, including in particular a homestead to the value of one thousand dollars and personalty to the amount of five hundred dollars. The militia had always played an important part in the South, and now all able-bodied male citizens between twenty-one and forty-five years of age were declared liable to such duty. The enforcement of this provision was to lead to important consequences.

A reprehensible fact was that the election on approval of the constitution and for State officers was held at the same time. The result of this was that the constituency fixed by Congress for the adoption of the constitution was that which voted for State officers. The constitution should have been adopted by whatever electors Congress saw fit to prescribe, Congress having taken this war power into its hands, but the election for State officers should have been under the terms of this constitution when adopted. In point of fact, the limited constituency fixed by Congress, instead of a broader constituency declared by the new constitution, was that which passed on the election of officers and defined the policy of the new State administration. As a result in North Carolina forty thousand citizens who would have been entitled to vote by the new constitution were disfranchised and the government given over to men who were not representative. At the same election, April 23, 1868, the constitution was adopted.

The legislature of North Carolina assembled and on July 1st the proposed Fourteenth Amendment was ratified in the Senate by a vote of thirty-six to two and in the House by seventy-two to twenty-three. Governor Holden notified General Canby of this action and on the 3d Canby

telegraphed the governor that instructions would be sent to the military commanders in North Carolina to abstain from the exercise of any authority under the reconstruction laws except closing up unfinished business, and not to interfere with any civil matters except in case of unlawful or forcible opposition to the inauguration of the State government. This action was taken by Canby even before the general order from the War Department, approved by the president, abolished the second military district and assigned Canby to the command of the department of Washington. The proclamation by President Johnson announcing the ratification by North Carolina was very guarded. It recited that a certain paper had been received from certain named people in North Carolina claiming to be the governor and other officials and stating that a body claiming to be the legislature had by a certain vote ratified the amendment, and that in accordance with this, without passing upon the validity of the action, he announced that the amendment had been ratified by the State of North Carolina in the manner above stated.

North Carolina, therefore, was now fully restored to her representation in both branches of Congress, which the State had been prompt and persistent in claiming. Upon the adoption of the revised constitution in 1865 there had been elected seven representatives to the Thirty-ninth Congress, as well as two senators, but they had been refused seats. There had been elected to the Fortieth Congress representatives and senators chosen, but they did not obtain their seats until the third session, held in December, 1868. Of the senators now recognized John Pool had been a Whig of some prominence in the State before the war, and J. C. Abbott was a Federal brigadier from New Hampshire.

In South Carolina registration under the Reconstruction Acts showed in October, 1867, a total of 125,328 voters, of whom forty-six thousand three hundred and forty-six were whites and seventy-eight thousand nine hundred and eighty-two were colored, a ratio of three to five. The vote upon

a constitutional convention *vel non* in November was seventy-one thousand eight hundred and seven in favor and twenty-eight hundred and one against a convention. Of the members of the convention, which met at Charleston in January, 1868, thirty-four were whites and sixty-three colored, and none of them a Democrat or white man of any prominence. The instrument formulated was made up of excerpts from constitutions of northern States, but it fairly met the existing conditions, for it was not materially amended for twenty years. Indeed, the constitutions adopted throughout the South do not as a rule reflect any discredit upon the negroes. They show much in the way of proscription, but provisions as to public education, taxation, judiciary and the like often present new and commendable features.

The South Carolina constitution was adopted on March 12, 1868. It contained the 1865 provision that slavery should never exist and also the requirement that paramount allegiance should be due to the constitution and government of the United States, in almost the same terms as in North Carolina. No person was to be disqualified as a witness or for holding property or subjected to any disqualification that was not laid upon others in like circumstances. Imprisonment for debt was prohibited except in cases of fraud and it was provided that a reasonable amount of homestead and other property should be exempt from seizure for debts. There was to be no property qualification for holding office, all inhabitants were to have equal right to elect officers and be elected to office, and representation was to be apportioned according to population. Distinction on account of race or color was prohibited and all classes of citizens "should enjoy equally all common, public, legal and political privileges." All officers, including the general assembly and members of the bar, must before entering upon their duties take an oath much like that of North Carolina.

The electoral qualifications were that "Every male citizen of the United States, of the age of twenty-one years and upward, not laboring under the disabilities named in this

constitution, without distinction of race, color, or former condition, who shall be a resident of this State at the time of the adoption of this constitution, or who shall thereafter reside in this State one year, and in the county in which he offers to vote sixty days next preceding any election, shall be entitled to vote for all officers that are now, or hereafter may be, elected by the people, and upon all questions submitted to the electors at any elections: Provided, That no person shall be allowed to vote or hold office who is now, or hereafter may be, disqualified therefor by the Constitution of the United States, until such disqualification shall be removed by the Congress of the United States."

It was further provided that public schools, colleges and universities supported by public funds were to be free and open to all children and youth of the State between six and sixteen years of age, without regard to race or color, and the militia should consist of all able-bodied male citizens between eighteen and forty-five years of age. The governor was allowed a veto, but two-thirds of each house might pass a bill notwithstanding.

As to Federal relations, South Carolina was included in the act of June 25, 1868. On July 9th the legislature ratified the Fourteenth Amendment, and during the same month all power exercised by the district commander was remitted to the new civil authorities.

The State had sent claimants to seats in the House and Senate of the Thirty-ninth Congress, but without avail. The claimants in the Fortieth Congress were elected at the same time the constitution was ratified, and secured admission in December, 1868. Of the senators Thos. J. Robertson was a native, and Frederick J. Sawyer, although born in Massachusetts, had been resident in South Carolina since 1859.

In Georgia the registration was almost equal for whites and blacks, being ninety-five thousand two hundred and fourteen against ninety-three thousand four hundred and

fifty-seven. Out of one hundred and six thousand four hundred and ten votes cast in the election on convention, only four thousand one hundred and twenty-seven opposed the proposition. Of the one hundred and sixty-six delegates chosen, thirty-three were negroes and a majority Radicals. The minority endeavored to provide an educational qualification for voters, but universal suffrage was adopted with disfranchising clauses as to ex-Confederates, and the constitution went on to provide also that debts due before June 1, 1865, should be null and void. This was to prove a stumbling block, for, when the instrument was sent up to Congress for approval, the clause was an obstacle to recognition, and the act admitting the six southern States to representation in Congress provided for the expunging of the provision. The act of Congress of June 25, 1868, provided "the State of Georgia shall only be entitled and admitted to representation upon this further fundamental condition: that the first and third subdivisions of section seventeen of the fifth article of the constitution of said State, except the proviso to the first subdivision, shall be null and void, and that the general assembly of said State by solemn public act shall declare the assent of the State to the foregoing fundamental condition."

The legislature chosen contained in the Senate an equal number of Conservatives and Republicans, while in the House the Conservatives were largely in the majority. Rufus B. Bullock, a Republican, defeated the Conservative John B. Gordon for governor, but three of the seven congressmen elected were Conservatives. The legislature on July 21st assented to expunging the obnoxious provisions from the constitution, as required by the enabling act, and also adopted the Fourteenth Amendment. The congressmen were seated, but the adjournment of Congress prevented such action as to the senators elect. Military appointees were directed, however, to turn over their offices to the elected officials, and the order of July 28, 1868, from army headquarters ending the third district included Georgia

as well as Alabama and Florida. Bullock had meantime been inaugurated as governor under a new State constitution, and Georgia to all appearances was fully reconstructed.

Next in time came the constitutional reconstruction of Florida, and this presents a picture of factions, a feature to be not uncommon in southern history. The distances in the third district were great, so that the active administration was of Florida as a sub-district under Colonel John T. Sprague, stationed at Tallahassee. When completed the registration showed eleven thousand one hundred and forty-eight white voters and fifteen thousand four hundred and thirty-four negroes, and the election in November, 1867, was carried for convention almost unanimously. In the convention which met at Tallahassee on January 20, 1868, were seventeen negroes, and the sessions were enlivened by Republican quarrels. Thus, on the first of February, during a temporary adjournment, fifteen members of the majority seceded, upon which the remainder tried to induce the Federal commander to bring in the recalcitrants. Failing in this, they went ahead under the presidency of Daniel Richards and formed a constitution of their own, a drastic instrument, and on its completion February 8th sent it to General Meade.

The seceders, however, joined by nine other members, now took possession of the house chamber and elected another president; but Meade came to Tallahassee and was successful in effecting a compromise, hardly satisfactory to either side. Finally by a large vote a new constitution was adopted which gave suffrage to every male person of age without discrimination as to race, color, nationality, or previous condition, and omitted the disfranchisement found in almost all the other new constitutions. It also went so far as to direct the legislature to prescribe an educational qualification in the near future, the only attempt of the kind in the South. Most of the State officers were to be appointed and removable by the governor,—a clause which was to play an important part in the future.

The constitution was ratified in May by a vote of fourteen thousand five hundred and twenty to nine thousand four hundred and ninety-one and June 9 the newly elected legislature passed the Fourteenth Amendment. The State was therefore embraced in the Omnibus Act of June 25, 1868, and restored to representation in both branches of Congress in the persons of Senators A. S. Welch and T. W. Osborn of the bureau and the single representative C. M. Hamilton. The governor, Harrison Reed, was an immigrant from the North at the close of the war, and about him and Osborn was to centre much of the history of the reconstructed State.

Turning to the west and crossing the Mississippi, we find in Arkansas a State which during the Civil War had been a military border, and during these reconstruction days was to be a political debatable ground. General E. O. C. Ord, commanding the fourth district, had prevented the assembling of the old legislature, and seized the State treasury, because of disloyalty of the officials, and later even enjoined the courts from their usual proceedings. These measures went upon the theory that the people of Arkansas were not only disloyal, but in need of active control. The situation improved somewhat under General Gillem, and the registration which was to determine the future of the State went on apace.

When it was completed it showed forty-three thousand one hundred and seventy white and twenty-three thousand one hundred and forty-six negroes. At the election on the question of convention, hardly half the voters took part, but the proposition was carried by a majority of almost fourteen thousand. In this body of seventy-five nearly all were Radicals, eight were negroes, and only nine were native whites. In nativity twenty-one States and foreign countries were represented.

The convention met at Little Rock on January 7, 1868. One of the northern members, representing Desha County, was C. S. Sims, who was on many of the committees and

had much to do with the phraseology of the constitution. He lived afterwards in New Jersey, where he died a member of the Court of Errors and Appeals. W. H. Grey was the ablest negro, a native of the District of Columbia. The debates were ably conducted on both sides. In the Bill of Rights, paramount allegiance was declared due to the Federal Government, which had the right to compel obedience by armed force,—a provision copied from the war constitution of Nevada. After considerable opposition, public schools were provided for, to be open to both races, and universal suffrage was adopted, but with the usual disfranchising clauses.

The returns of the election beginning March 13th showed a majority for the constitution of one thousand three hundred and sixteen in a total vote of fifty-four thousand five hundred and ten. This was much less than a majority of the registration. As it was, charges of fraud were rife, and adoption was only secured by enforcing a new act of Congress, not generally known, allowing a majority of the voters to control. The legislature, anticipating the sanction of Congress, ratified the Fourteenth Amendment April 6, 1868, and Arkansas was admitted earlier than the other States by an act which was passed over the president's veto. As senators there qualified the next day Alexander McDonald and Benjamin F. Rice, as representatives L. H. Roots, James Hinds and Thomas Boles. Eight days later a general order of the commander declared military government had ceased to exist, and Powell Clayton was inaugurated governor and began the eventful civil administration of the reconstructed State.

We have now considered the steps taken toward reconstruction of most of the Southern States. Arkansas had been admitted to representation in Congress by the special act of June 22, 1868, and three days later the Omnibus Act had recognized also the Carolinas, Florida, Georgia, Alabama, and Louisiana. The steps contemplated by the first reconstruction laws were varied by this last act in some

particulars. The earlier provision was that after registration, election for convention, formation of new constitution and its ratification by Congress and the people, and the adoption of the Fourteenth Amendment the respective States would be recognized by the general government. The Omnibus Bill passed June 25, 1868, over the president's veto, however, varied these provisions somewhat. It recited that these States had in pursuance of the reconstruction act of March 2, 1867, "framed constitutions of State government which are republican, and have adopted said constitutions by large majorities of the votes cast at the elections held for the ratification or rejection of the same," and it was therefore enacted that each of these States "shall be entitled and admitted to representation in Congress as a State of the Union when the legislature of such State shall have duly ratified the amendment to the Constitution of the United States proposed by the Thirty-ninth Congress, and known as article fourteen, upon the following fundamental conditions: That the constitutions of neither of said States shall ever be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote in said State, who are entitled to vote by the constitution thereof herein recognized, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted under laws equally applicable to all the inhabitants of said State: Provided, That any alteration of said constitution may be made with regard to the time and place of the residence of voters." The act went on further to declare that, when the respective States by their legislatures had duly ratified the proposed Fourteenth Amendment, the officers duly elected and qualified under the constitutions thereof should be inaugurated without delay.

All of these conditions had now been fulfilled by Arkansas and the six States named in the Omnibus Act. These communities were not only restored to their normal position in the Union, but there was in each a regular State government.

Of the laggards in reconstruction we may speak more briefly, for, as they were to remain under military rule, the fuller consideration of their conditions can be adjourned to a future time. Of these three States, Virginia was the first to hold a convention. No commonwealth had greater influence at the South than the Old Dominion, and whatever occurred there was watched closely by the whole Union. There immediately after the passage of the reconstruction laws active steps were taken to reorganize political parties, and John M. Botts, a Union man who had been prominent in public life as far back as the days of President Tyler, became the leader of the moderate Republicans. A meeting was held by Republicans at Richmond in April, but the proceedings in the county meetings were much more radical. James W. Hunnicutt was the leader of the extreme faction, and his power seemed gradually to increase. At a meeting at Richmond in August, 1867, Senator Henry Wilson and other prominent men were present, but it was not found practicable to hold the proposed convention to harmonize views, for the moderates were disgusted at the number of negroes present and themselves took no part. Hunnicutt was accused of such incendiary advice as telling the negroes to apply the torch, but nevertheless did not lose his influence.

The revised registration of Virginia showed one hundred and eighteen thousand and eleven whites and one hundred and four thousand eight hundred and ninety-one negroes, and at the election a large majority of the delegates were Republicans. The vote for convention was one hundred and seven thousand three hundred and forty-two as against sixty-one thousand eight hundred and eighty-seven. The convention assembled in the hall of delegates at Richmond on November 3, 1867, John C. Underwood, United States District Judge, presiding, but its working sessions were from January 2 to April 17, 1868. It provided for the disfranchisement of all who were debarred from voting for delegates to the convention, and most State officers, including

legislators, must take the ironclad oath. The result of these provisions would have been disastrous. No State had made the Confederate cause her own more thoroughly than had Virginia, and there would be practically no material with which to administer the government were such provisions to become part of the fundamental law. The debates were warm and the proposed measures divided the Republican party in the State. The convention finally adjourned without making provisions for submitting the instrument to popular vote and for this reason no election was held. Virginia, therefore, was not reconstructed, and remained under military government.

The Mississippi registration showed forty-six thousand six hundred and thirty-six whites and sixty thousand one hundred and sixty-seven negroes,—a rather unexpected result. The outlook was discouraging to the whites and there was much discussion as to the utility of opposing reconstruction. The net result was that many whites stayed away from the polls, and the election November 5, 1867, for convention went almost by default. Out of a total vote of seventy-six thousand and seventy-six, only six thousand two hundred and seventy-seven opposed the convention. This body, which met on the same day with the convention of Arkansas, consisted of one hundred members, and, from the arrangement of representation, of these nineteen were Conservatives, over twenty ex-Union soldiers, twenty-nine native Republicans, and seventeen negroes. General Eggleston, of New York and Ohio, was president. The first business was fixing the compensation of members on a liberal basis and much of the time was taken up with relief and other measures which were really legislation, and as to which General Gillem made repeated efforts to impose a check.

The convention was turbulent throughout, many of the members going armed. Newspaper reporters were excluded for using the word "colored" in speaking of the negro members and refusing to give them the prefix "Mr." The debates were bitter, especially over the principal work of the

convention, the articles as to the franchise, for the discussion on these topics lasted from February until April. As adopted by a large majority, men applying for registration must take the reconstruction test oath and swear that they admitted the civil and political equality of all men. No one could be elected to office who had while in the legislature voted for the call of the secession convention, in convention voted for that ordinance, or had held any office civil or military under any government hostile to the United States, unless he had purged himself of the offense by voting for the reconstruction convention or otherwise favoring its policy, nor could any one hold office who had given voluntary aid or encouragement to armed enemies of the United States. Upon the adoption of this article by a large majority, fourteen of the white members resigned their seats and returned home. A provision in the Bill of Rights forbade the requirement of a property qualification for office or an educational provision as to suffrage.

This body was generally called the Black and Tan Convention, and its cost, including the election on the constitution, was about a quarter of a million, of which the per diem of the delegates was over one hundred thousand dollars. The length of the session was one hundred and fifteen days,—five times that of any convention up to that time, and almost double that of the only one held since in Mississippi.

The proscriptive clauses of the constitution were so severe as to result June 22d in its rejection at the polls by 7,000, almost all white people and not a few negroes voting against it. The result was that Mississippi was not reconstructed.

Texas was a part of the fifth district, but on account of the distance from headquarters at New Orleans the sub-district headquarters at Galveston were semi-independent. We have noted the activity of the military in protecting negroes in their equal rights, and the charge was frequently made by loyalists that disorder was paramount throughout the State.

It was under specially severe army supervision, therefore, that the registration was carried out. The result showed fifty-nine thousand six hundred and thirty-three white voters and forty-nine thousand four hundred and ninety-seven colored. The Conservative State convention advised against calling a convention, but at the election on the subject out of fifty-four thousand three hundred and eighty-eight votes only eleven thousand two hundred and forty-six were cast against the proposition.

The constitutional convention, consisting of ninety members, met at Austin on June 1st, with the Republicans in a majority of ten to one. There were only nine Conservatives, equalled in number by the negroes. The Republicans themselves soon fell into factions, of whom the moderates were headed by Andrew J. Hamilton, the late provisional governor, while his brother, Morgan Hamilton, led the radicals. E. J. Davis was elected president. Provisional Governor Pease, acting since the removal of Throckmorton by General Sheridan, spent much of his message in announcing the prevalence of crime, particularly murder, and a committee of the convention reported that there was absolute freedom of speech in very few localities, as the dominant rebel element would not tolerate free discussion,—and this in the face of the calling of the convention not desired by the Conservatives on a vote of four to one. The convention was in session for eighty-five days, at a cost to the State of one hundred thousand dollars. General Reynolds declined to authorize any further appropriation in August and the body was forced to take a recess. Previously they had spent much time discussing matters more proper for legislation, but in December they discussed and adopted a constitution. Its provisions were not proscriptive. Suffrage was made universal, without exceptions on account of rebellion, and all persons were declared equal before the law.

Nothing, however, was done with the constitution for the time being, and Texas remained under military administration.

Thus the Southern States passed through the reconstruction crucible prepared by Congress. If that body had shown wisdom in settling the questions left by the Civil War, the States should now go forward peacefully, in rapid recuperation from the exhaustion of the past. It was a great opportunity enjoyed by the statesmen of the day, for the military had so thoroughly subdued the South that even the attempts at restoration made by the Federal executive could be disregarded by Congress and thrown aside without a hand raised in opposition. It would look as if the dream of a *tabula rasa* was realized, that not only was the past wiped out, but a fair page lay open upon which the future should be written.

After all, however, it was upon human hearts this future must be written. The registration, which was the basis of everything subsequent, was only of those who had taken no active part in the rebellion, for treason was regarded as a crime not to be forgiven, at least for the present. From its stain the new fundamental laws must be preserved, and this laudable end was to be secured by oaths. On the other hand, the freedmen, who owed so much to the Republican party, were enfranchised and encouraged to exercise their new found rights. The practical result of this policy, even in 1868, was threefold. Where the vast majority of the people had been rebels or rebel sympathizers, it excluded almost every man of influence, and on the other hand encouraged those who had been skulkers in the war, and those who wished to take the tide of fortune by playing the renegade, to profess loyalty for the sake of office. Already immigrants from the North, some of good intentions, many influenced by other motives, were in evidence, more than willing to guide the grateful negro in the exercise of the franchise. Everywhere the blacks must be influential, for the leading whites were generally disfranchised and in some States the negroes were actually in the majority.

Freedom for the negro had been secured by the war and political equality had now been enacted by Congress and made the fundamental law of those States which had adopted

new constitutions. If in some places the situation might produce government by minority, at least this was the fault of the white people themselves and could be cured at any time by their repenting and securing amnesty. Self-interest must ultimately whip them into line. Moreover, if loyalty, if political equality rather than numbers were to be the test, the future was secure, for lip loyalty was supreme, and indeed in South Carolina at least the absolute majority of the population was in control. It was a great experiment in politics, a great experiment in the history of civilization, and its working out deserves careful scrutiny. What would the harvest be?

CHAPTER XI

CIVIL MISRULE IN THE CAROLINAS

THE officials elected when the new constitutions were ratified went into office in the several States immediately upon the approval of these instruments by Congress. We noted the adoption by the new legislatures of the proposed Fourteenth Amendment only to show the restoration of Federal relations, and will now consider the administration of State affairs by these new local governments.

Virginia, Mississippi and Texas had not chosen to ratify the constitutions proposed to them, and so for the present may be left out of consideration. Our concern is with the other Southern States, and following the geographical order we first take up the Carolinas, the old second district.

On the fourth of July, 1868, the new government of North Carolina was put in office. The Senate contained 38 Republicans and 12 Democrats, the House 80 Republicans and 40 Democrats. Of the majority 12 were strangers and 19 negroes. The dominant party, particularly those who had come South from what were represented as more progressive parts of the country, were loud in their profession of an intention to regenerate the State.

A prominent feature of the Reconstruction governments throughout the South was the plan to build railroads. Many of these enterprises had been projected before the war and some new ones were now added, but, whether new or old, in operation or yet to be built, railroads played a great part

in the new régime. There is no question that there was room for improvement of transportation facilities; none that such improvement was essential to the recuperation as well as the advancement of the South. The coast of North Carolina was much indented by the sea and there were a number of good harbors. Wilmington had during the war proved itself invaluable to the whole South and was possibly the last port open for blockade-running. Railroads thence to the interior were much needed, but those in existence were in bad order and of no great length.

Acting upon this need many new railroads were chartered, and their bonds endorsed by the State. A railroad ring soon came into being and among the operators who figured largely were Milton S. Littlefield and George W. Swepson. The former was an immigrant; the latter, a native, who had established a bank. In no great while four hundred and twenty thousand dollars of State stock in the Wilmington and Weldon Railroad and the Wilmington and Manchester Railroad, belonging to the educational fund, were sold for one hundred and fifty-eight thousand dollars in order to pay the expenses of operating the government. Despite the twenty-five million dollars of bonds authorized, and of which over one-half was issued to railway enterprises, it was stated that nevertheless not one mile of railroad was built. The old debt of the State was sixteen million dollars, but now the indebtedness rose to forty-two million, at a time when the whole property assessed for taxation was hardly one hundred and twenty million dollars. As a result taxation became enormous. In 1860, taxes collected for the State were \$543,000, on an assessment of a little under three hundred millions; ten years later, when the assessment had decreased to one hundred and fifty millions, and thus amounted to less than half, the taxes were over one million dollars, and so more than double. Bad as this was, it was not all. The county authorities copied the example of the State officials and local expenditures increased in proportion.

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What became of this money is not difficult to guess. Much was used for the unnecessary sessions of the legislature, much for bribery of the legislators themselves, and perhaps the most went to the railroad and other rings. Justice was difficult to obtain and high in price. The judges were ignorant if they were not corrupt, and this was to be expected, because the radical party was necessarily without white men of any standing. Certainly little of the money was used for public purposes. No public buildings or charitable institutions were erected, no child of either race was educated for two years.

Pretending that there were internal disorders, the legislature passed the Schoffner act, authorizing the governor to declare a county in a state of siege, as it would be called in Europe, and enforce martial law. For this purpose two regiments of soldiers were to be raised and used at his discretion. When the act was carried out, one regiment was enlisted entirely from negroes in the eastern counties, and the other of renegade whites from the western mountains, commanded by a man named Kirk. After being armed, they were sent to the counties of Orange, Alamance and Caswell, where they made arbitrary arrests; but this proved to be the last straw, for when a writ of habeas corpus was served upon Governor Holden and he declined to respect it, it was with difficulty that the younger element of the population could be restrained from taking the law into their own hands. The end was in sight. To enforcing political equality of the negroes had been added bankruptcy of the State, and on that was now piled military rule and that not by Federal soldiers but by negroes and white men hardly more than their equals. This could not last in a State which claimed to have sent more men to the war than any other in America.

An election came on for attorney general and legislature in August, 1870, and the people from one end of the State to the other were determined to redeem North Carolina. The State soldiers were posted in different places, some

public men arrested, and the support of the president was promised to the government; but nevertheless many white citizens who had not been enabled to vote for the first set of officers were now under the new constitution at last able to go to the polls. Some of the better element of the Republicans voted with them, for all were not negroes and all were not radicals, and it was a time for good citizens to unite. The result was that the white men prevailed and elected a legislature overwhelmingly Democratic. Forthwith the taxation laws and the Schoffner act were repealed, and the matter of impeachment of Governor Holden was taken up.

His trial presented some analogies to that of President Johnson. The articles were eight in number and based upon the proceedings of the military in the three counties in which the governor had undertaken to subdue what he called an insurrection. The proceedings were before the Senate at Raleigh, Chief Justice R. M. Pearson presiding, and much evidence was taken. On the forty-fourth day the vote was taken, resulting in a majority for conviction on all eight articles, and the necessary two-thirds on six. Thereupon on that day, March 22, 1871, it was "adjudged by the Senate of North Carolina sitting as a court of impeachment at their chamber in the City of Raleigh, that the said William W. Holden be removed from the office of governor and be disqualified to hold any office of honor, trust or profit under the State of North Carolina." Senators took the opportunity, as in the impeachment of the president, to file opinions.

The misrule in North Carolina has thus been brief, and by a resistance quick and decisive the white people regained control of the State offices, and more gradually of the congressional delegation. Local history was henceforth not without interest or partisanship, but at least it was the interest and partisanship which accompany all politics in self-governing communities. Retaining their own with a firm grasp, North Carolinians could look with sympathy on

what was occurring over the mountains to the south in the State with which their own history had long been closely interwoven.

For in South Carolina we come upon an entirely different scene. The ex-slaves outnumbered the whites, and therefore the history of South Carolina during these years was full of interest. It exhibited a trial of the policy of conferring the suffrage upon the blacks without qualification of property or education. The white people, on the other hand, began to stand together, and the old Whigs and Democrats assumed here as elsewhere throughout the South the neutral name of Conservatives. Their candidate for governor was W. D. Porter, of Charleston, a man of integrity and ability. R. K. Scott, of Ohio, one of the officers of the Freedmen's Bureau, was the Republican candidate, and was supported by the northerners who had recently come into the State, by some whites, and by the great mass of negroes. The election resulted, as might have been anticipated, in the choice of Scott by a majority of two to one.

The new government went into office in July, 1868, the Senate containing ten colored members and twenty-one whites, of whom seven were Democrats. The House numbered one hundred and twenty-four, of whom seventy-eight were colored and forty-six whites—fourteen being Democrats. F. J. Moses was chosen speaker, and he gradually became even more famous than Scott.

The general voting power in the State was 78,000 colored voters against 46,000 whites, so that the negroes could not fail to rule, and were therefore for some years in complete control. Scott's term was two years, and he succeeded himself in 1870. In 1872, Moses ceased to be speaker of the House and became governor, a place of greater power, and at the same time Patterson was elected United States Senator under flagrant accusations of bribery.

The picture of the time drawn by James S. Pike in 1873 is good also for earlier years, and is of the more value

because he was an abolitionist, of considerable public experience, and a trained observer, with power of literary expression. The negro had now been in office long enough to realize his power, and we see the perfect fruit of his political education.

"The assembled wisdom of the State," says Pike, "issued forth from the State House. About three-quarters of the crowd belonged to the African race. . . . They were such a looking body of men as might pour out of a market-house or a court-house at random in any Southern State. Every negro type and physiognomy was here to be seen, from the genteel serving man to the rough-hewn customer from the rice or cotton field. Their dress was as varied as their countenances. There was the second-hand black frock-coat of infirm gentility, glossy and threadbare. There was the stovepipe hat of many ironings and departed styles. There was also to be seen a total disregard of the proprieties of costume in the coarse and dirty garments of the field; the stub-jackets and slouch hats of soiling labor. In some instances, rough woolen comforters embraced the neck and hid the absence of linen. Heavy brogans, and short, torn trousers, it was impossible to hide. The dusky tide flowed out into the littered and barren grounds, and, issuing through the coarse wooden fence of the inclosure, melted away into the street beyond. These were the legislators of South Carolina.

"It is the spectacle of a society suddenly turned bottom-side up. The wealth, the intelligence, the culture, the wisdom of the State, have broken through the crust of that social volcano on which they were contentedly reposing, and have sunk out of sight, consumed by the subterranean fires they had with such temerity braved and defied.

"In the place of this old aristocratic society stands the rude form of the most ignorant democracy that mankind ever saw, invested with the functions of government. It is the dregs of the population habilitated in the robes of their intelligent predecessors, and asserting over them the rule of

ignorance and corruption, through the inexorable machinery of a majority of numbers. It is barbarism overwhelming civilization by physical force. It is the slave rioting in the halls of his master, and putting that master under his feet. And, though it is done without malice and without vengeance, it is nevertheless none the less completely and absolutely done. . . . In this crucial trial of his pride, his manhood, his prejudices, his spirit, it must be said of the Southern Bourbon of the Legislature that he comports himself with a dignity, a reserve, and a decorum, that command admiration. He feels that the iron hand of Destiny is upon him. He is gloomy, disconsolate, hopeless. . . .

"This dense negro crowd they confront do the debating, the squabbling, the law-making, and create all the clamor and disorder of the body. These twenty-three white men are but the observers, the enforced auditors of the dull and clumsy imitation of a deliberative body, whose appearance in their present capacity is at once a wonder and a shame to modern civilization. . . .

"And the line of race very nearly marks the line of hostile politics. As things stand, the body is almost literally a Black Parliament, and it is the only one on the face of the earth which is the representative of a white constituency and the professed exponent of an advanced type of modern civilization. . . . The Speaker is black, the Clerk is black, the door-keepers are black, the little pages are black, the chairman of the Ways and Means is black, and the chaplain is coal-black. At some of the desks sit colored men whose types it would be hard to find outside of Congo; whose costume, visages, attitudes, and expressions, only befit the forecastle of a buccaneer. . . . These men, with not more than half a dozen exceptions, have been themselves slaves, and . . . their ancestors were slaves for generations."

Such was the legislature; what was the legislation? The fierceness of the African freeman became docility in the American slave. Into what form would be transmuted the

energy of the negro when he had become a freedman, himself master in his new home? Perhaps it could be best expressed in the one word, Corruption. If it be proper to say the blacks learned it from their white leaders, the carpetbaggers in particular, they had learned it well even before Pike came to record what he saw and heard.

The foundation of liberty in any American community is the purity of elections. South Carolina was unfortunate in this respect. Not only was the voting majority composed of ignorant people, but the governmental machinery was controlled by designing men. The means by which they did this was, as in some other Southern States, a militia law. In March, 1869, there was approved a militia act, which attracted little attention at the time, but in connection with the election of 1870 played a considerable part. A reform movement, so called, had then started and Judge Carpenter, an independent Republican, ran for governor as its representative. Scott thereupon organized a negro militia throughout the State, with the result that fourteen full regiments were enrolled. On them and in other ways the governor spent during this canvass \$374,000. Resolutions of 1869 authorized him to purchase two thousand stands of arms, and in point of fact he bought ten thousand stands of light loading and Winchester rifles and one million centre-coppered cartridges. The militia and the constabulary were freely used for purposes of intimidation and this led to a system of terrorism by brutal negroes. The whites gradually organized in turn, although not accepted as militia, and the Ku Klux movement assumed form. Disorders became marked in the upper counties and led to President Grant's suspension of *habeas corpus* and to the reign of martial law by irresponsible military officers.

The only method to detect fraud committed in the elections was to subpoena the voters. In this way it was found that in Beaufort the commissioners returned that six voted for one candidate when forty-one men swore that they had voted for him, and the same story was told

elsewhere. In Chesterfield County, where the whites were largely in the majority, the commissioners nevertheless returned as elected to the lower house two men who were friends of Scott. Even Republican papers denounced such procedure; but the House seated them.

The governor generally exercised the power given him over the troops for political purposes, such as to effect his own reelection and that of his friends. The Republican legislature of that day through an investigating committee say they are "forced to the acknowledgment, however unpleasant or humiliating it may be, that the moneys expended . . . were not all paid out for [military] purposes. In the enrollment and organization of the militia, as well as in the armed force employed by the governor, there was a most ample and complete opportunity for ambitious political partisans and aspirants for reelection to arm and equip a force of personal friends and advocates and pay them . . . not out of their own purse but out of any moneys in the treasury not otherwise appropriated."

Their opinion of the governor was reciprocated by that of this official as to them. In his one veto message, filed on March 7, 1871, returning without approval an act for legislative expenses, he remarks: "I regard the expenditure of the money already appropriated during this session, and the sum included in this bill, amounting in the aggregate to \$400,000, as simply enormous for one session of the Legislature. It is beyond the comprehension of any one how the General Assembly could legitimately expend one-half that amount of money. I cannot refrain from expressing the opinion that there must have been some secret agency in fixing the sum at that amount, as a number of members, both of the House and Senate, have expressed their surprise at finding the appropriation changed from \$125,000, as it was believed to have passed, to that of \$265,000."

As elsewhere the development of transportation facilities was a crying need and the State went into internal

improvements with more zeal than judgment. This applied equally to old roads and to new enterprises. Thus, the State owned \$400,000 of the stock of the Columbia and Greenville Railroad, besides a mortgage amounting to two millions. Patterson, afterwards senator, Parker, once treasurer, and Neagle, once comptroller, obtained possession of the road and exploited it for their own benefit so well that finally the State lost stock and mortgage, and the owners of the road were benefited in proportion.

Another enterprise was the Blue Ridge Railroad, which a company designed to build from South Carolina northwardly across the end of the Blue Ridge. In September, 1868, the corporation obtained a guarantee of four millions of dollars of its bonds, and three years later all conditions were waived and the State left without any security. The courts decided the original issue was fraudulent, but much injustice had been done already. Not more than thirty miles of railway were built, and the company failed, even with the guarantee of the State. In order to aid the consolidation of the Greenville and Columbia and the Blue Ridge Railroads, the State surrendered its lien upon both, and the net result of the transaction, according to the report of the tax payers' convention, was that the Greenville and Columbia Company went into the hands of individuals who had never paid one cent out of their own pocket for the investment. Nor was this all. Although the Blue Ridge Company was bankrupt, nevertheless scrip of the concern, amounting to almost two million dollars, was authorized by the legislature and made receivable for taxes. As a result tax collectors would buy the scrip below par and turn it into the treasury at its face value. Thus everybody made money except the tax payers.

South Carolina was under obligations to redeem outstanding circulating notes of the State Bank. Immediately after the war judicial proceedings were taken requiring the filing of the notes, and after notice for more than one year there were filed all told something under a half million

dollars of paper. The authorities induced the legislature to pass an act for the issue of about a million and a quarter dollars, and the executive department issued over a million and a half to meet this obligation, so that the State lost by this single transaction a million dollars.

Among the most striking of the proceedings of that time was that relating to refurnishing the State House. The restored government from 1865 on met in the building in its old condition, but the reconstruction assembly, composed largely of negroes, found it necessary to have extensive refurnishing. Thus \$750 went for a mirror in the speaker's room, and each office was provided with toilet sets and other conveniences *ad libitum*. There were clocks at \$480, chandeliers at \$650, two hundred fine porcelain cuspidors at \$8.00 each, and so on through the list. Under pretence that they were for committee rooms, the quarters of the members at private boarding houses were supplied also with Wilton and Brussels carpets, fine mirrors, sofas, and the like, quite according to the old Guinea coast custom of plundering a wrecked vessel. The bills added up fifty thousand dollars and the amount appropriated to pay this was \$95,000. When a member was questioned by an investigating committee and threatened with indictment for not answering, he said that they could not afford to indict him unless they were prepared to enlarge the penitentiary, for he knew facts which would take half of them along with him. The result was that the prosecution was dropped.

No legislation not perfunctory in nature was passed in which bribery was not used. Accusations were bandied back and forth among members of the Senate and House, and five hundred dollars seemed to be regarded as the reasonable charge for a vote on a railroad bill. There is much evidence to show that the same proceedings were repeated on a smaller scale in many of the counties. It has been claimed that the negroes at large favored proper legislation and that the electorate was untouched by corruption and not nearly so bad as in New York City about the same time. There

is less evidence as to this, but there can be no doubt that at least the official body, State and county, was corrupt from top to bottom.

D. H. Chamberlain, when Republican attorney general, after reciting what happened in 1868, wrote that "Three years have passed, and the result is—what? Incompetency, dishonesty, corruption in all its forms, have 'advanced their miscreated fronts'; have put to flight the small remnant that opposed them, and now rule the party which rules the State. You may imagine the chagrin with which I make this statement. Truth alone compels it. My eyes see it—all my senses testify to the startling and sad fact. I can never be indifferent to anything which touches the fair fame of that great national party to which all my deepest convictions attach me, and I repel the libel which the party bearing that name in this State is daily pouring upon us. I am a Republican by habit, by conviction, by association; but my republicanism is not, I trust, composed solely of equal parts of ignorance and rapacity. Such is the plain statement of the present condition of the dominant party of our State."

The frauds were not all great ones, for thrifty officials were willing to take small amounts when large ones were not at hand. Thus in 1869, although the United States were preparing to take a national census the next year, the State authorities undertook the unnecessary task of an enumeration. The amount paid out for this was upwards of \$75,000, while the much fuller census by the United States cost about \$43,000. The difference was absorbed in the usual way.

An instance of the liberality of the legislature is seen in its kindness to Moses. The speaker was fond of races and his friend Whipper, a negro, also a member of the House, made up one for the 4th of March, and the House took a recess for that occasion. The two men had bet one thousand dollars each, and Moses had the misfortune to lose. Whipper had the magnanimity three days afterwards, however, just before final adjournment, to make a motion in

the House that a gratuity of one thousand dollars be voted to the speaker for the dignity with which he had presided over the deliberations. The motion prevailed by a large majority and thus neatly Moses was provided with means to pay his debt to Whipper.

One of the most pitiable losses was that connected with a laudable attempt to make the negroes a race of tenant farmers. The plan was for the State to buy suitable lands and divide them up into farms among the blacks, who should pay for them in course of time. This was different from the Sherman scheme of colonizing the islands and the coasts, in that, while it created negro communities, it distributed them throughout the State and gave them the stimulus of contact with the more advanced race. Faithfully carried out, it might have done much good. In March, 1869, two hundred thousand dollars was appropriated by South Carolina for this purpose and a year later five hundred thousand more. It would seem that the project should appeal to the governing authorities if anything could, for they were either negroes themselves or dependent upon the negro vote.

In point of fact, land commissioner Leslie and his associates, by collusion with the owners, bought for an extravagant price lands which after all were as a rule unsuitable for the purpose. A good deal came to light when the General Assembly on February 15, 1872, abolished the office and Cardozo as Secretary of State assumed charge. The amount used for the purpose of the commission was upward of eight hundred thousand dollars, while the amount paid out for land was \$225,000 less, a difference which could not be explained. The land bought was principally in eight counties. Of that in Beaufort, much was worn out rice fields. In Charleston, of 75,000 acres, much was remote from the railroad or water communication, some utterly worthless, and none of much value. One well-known tract, called "Hell Hole Swamp", was purchased at 75 cents an acre, amounting to \$26,100 altogether, and turned over to

the State at \$120,000. In Chesterfield, a tract of about 75,000 acres was a sand bed, incapable of cultivation. In Colleton the land was poor, consisting largely of swamps and the like, in Pickens some fifteen hundred acres, with no purchasers, and in Marion two tracts, mostly worthless. On the other hand, in Edgefield county six tracts were bought of excellent quality and divided into lots which were sold and settled, and in Charleston County Johns Island was occupied by thrifty and industrious farmers.

As a whole, however, it was estimated that the land could not be sold for more than one-seventh of the amount paid by the State, for often a man wishing to sell land to the commission charged three prices,—one of which went to himself, another to the land commissioners, and the third to the broker. Much of the business of the commission was transacted by drafts on the New York financial agency, and thus no direct records were kept inside the State. In this way the people interested managed to cover their tracks effectually.

A branch of the corruption of the day which escaped observation and yet which needed publicity, was this very agency. In some way the authorities picked up one H. H. Kimpton to represent them in money matters in New York, and he sold South Carolina bonds or raised money upon mortgage of them *ad libitum*, from the proceeds paying drafts upon him, but never rendered detailed statements. He sometimes had in his control almost three million dollars of bonds without any security to the State. His reports allege that he paid fifteen and one-half per cent or more as interest for loans, and himself certainly received besides large commissions. On legislative examination it was found that some of his charges were not correct and that in his statements there was no appearance of accuracy. The financial board even advised covering up and withholding the real business transactions of the agency because it was thought unwise to record the actual facts. Indeed little was found. Kimpton's reports in 1873 showed for one year a sale of upward

of four million dollars of bonds in order to realize twelve hundred thousand dollars, and charges of interest and commissions of \$380,000 on a balance of about \$1,200,000.

The most lasting form of the frauds in South Carolina was the increase of the State debt. If what was wasted had been confined to the current revenue, it might be made up in the future, but increasing the bonded indebtedness was placing a mortgage upon posterity. The amount at any particular time cannot be stated accurately. When Scott went into office in July, 1868, the actual debt was about \$5,800,000. His first legislature in August, 1868, passed an act appropriating \$1,600,000 for interest and treasury needs, and the next February also the further sum of one million dollars, and there were besides bonds printed by the American Bank Note Company amounting to \$22,500,000. When attempts were made in 1873 to have bonds registered the legislature refused to take this step, although the only objection was that it would expose the corrupt use of the issue. In continuation of this policy of increasing the debt, Moses while speaker issued over \$400,000 of paid certificates. The Tax Payers' Convention in 1871 found the State indebtedness, exclusive of war obligations, to amount to upwards of twenty million dollars, and after making all allowances there seems to have been in 1873 a total debt of about twenty-four or twenty-five million dollars, besides contingent railroad obligations.

The explanation given by Scott was that the credit of the State was so low the financial agent had to sell the bonds for whatever he could get for them. Scott claimed that the depreciation of the bonds was due to the repudiation by South Carolinians of northern debts in 1862, and that Ku Kluxism made capitalists shrink as they would from a pestilential body, so that it cost nine millions in bonds to buy three and one-half million in currency. He borrowed money at the rate of four dollars in bonds for one in currency, and at one-half per cent interest per month. The bonds ruled higher somewhat later, but the annual

interest still varied from fifteen to twenty per cent, besides the commissions paid to the financial agent.

The statistics of the period show that while before the war the legislative sessional expense was about \$20,000, it averaged for six years after reconstruction over \$320,000,—that of the session of 1871 amounting to \$617,000. The average cost of public printing in Massachusetts was \$131,000, while in South Carolina after reconstruction the annual average was \$184,000,—one year being almost twice that amount. For the public debt there could not be shown one single public improvement, and the authors of the debt themselves repudiated almost six million dollars of it. A contingent fund, an amount which an officer could expend at his discretion, was original with the reconstructionists; during their period it amounted to \$376,000.

These figures are merely an index of a situation which probably has not its parallel in any State or country. Fraud was not only prevalent, but unblushing, and perhaps no species was left unpractised.

Passing from legislation and administration to the judicial system we find that the colored people on the juries would not convict colored defendants, although there was no difficulty as to white defendants. The negro and his friends insisted on the color line. The aliens who obtained the ear of the colored people seemed to have imbued them with the notion that there must be hostility between the negroes and their late masters, and one of the most useful arguments, used by negroes also, was that the land should belong to the negroes who had so long worked it. The negro senator Beverly Nash was a man of keen mind, and he acted upon a thoroughly socialistic basis. Thus in a public speech to six or eight thousand negroes he said: "The reformers complain of taxes being too high. I tell you they are not high enough. I want them taxed until they put these lands back where they belong, into the hands of those who worked for them. You toiled for them, you labored for them, and were sold to pay for them, and you

ought to have them." This doctrine, which has its counterpart in more modern times, was a practical method of confiscation. Many ginhouses and dwelling houses were burned from ill will toward owners, for when the African's passions are excited he stops short of no barbarity.

In colored districts the negro troops drove off everybody who was obnoxious, and the general employment of the negroes for military purposes and the refusal to arm the whites made the people at large believe that there was no security. Under the law a heavy penalty was denounced for organizing the military without the permission of the governor, so that, if he declined to accept a white company, which for a long time he invariably did, the white people were helpless except by way of revolution.

In the face of an adverse majority of negro voters it seemed as if redemption was impossible. From the beginning the whites had sought to have the blacks act with them but in vain. Some accepted the situation, and became Republican, but most of the whites acted together, looking for leadership to such men as General Wade Hampton. In 1870 they united with disaffected Republicans in a reform campaign, but Scott was reëlected over Carpenter. In 1872 the whites made no nomination and left the contest to two Republican factions. Moses became governor, Patterson senator, and the worst came to worst; but the negro majority rendered white action useless. Two years later some disaffected Republicans united with the Democrats and polled 68,000 votes against 80,000 for Chamberlain. Governor Chamberlain on his side undertook to reform his party and for two years worked doggedly to that end. A notorious negro was nevertheless elected judge of the Charleston circuit and during a session of the legislature Whipper and Moses were by the legislature also made judges. Chamberlain showed his independence by taking advantage of a technicality and refusing to issue their commissions.

Governor Chamberlain has said that from about 1873 the leaven of reform began to work, but these facts and

many others convinced the Carolinians that it would not affect the lump. Even an honest Republican governor, despite nineteen vetoes in a single session, was practically powerless for good.

The only remedy suggested at the time was cumulative voting, through which universal suffrage might be tempered by adding a representation for property also. Chamberlain advocated this, and so did even Scott; but there was no practical result. The most promising remedy was white immigration, which in course of time might overcome the majority. The negro legislators, however, did not look with favor upon this, or the increase of manufactures or other enterprises that might increase the number of whites.

Looking into the past one sees South Carolina more prominent than her sister next to the north, and is perhaps surprised to find that the old North State endured reconstruction misrule but two years while we leave the home of Calhoun in alien hands several years later. This difference in result, however, was due to difference in conditions. The negroes were much less numerous in proportion in North than South Carolina, and in the former State even the white Union element of the west had little sympathy with the African. If the American policy is rule by the majority, regardless of the fitness of the majority, South Carolina had no cause to complain; but, if this were the American ideal, her story must give us pause and call for reconstruction of the ideal itself. There was an end to progress if society was to be turned over to its least civilized elements. We may not go as far as a distinguished English woman publicist and say that "You may as well attempt to improve the morals and add to the happiness of idiots by turning them out of asylums, as to imagine you can benefit the darkies by abolition;" but the doctrine that the way to teach men the value of the ballot is to give the franchise to them proved itself in South Carolina a blunder if not a crime.

The story is one of interest because it is the story of a great experiment, more acceptable, however, to the student

of political institutions than the people most affected. If the adventurers and renegades in control of the ex-slaves had been ruining themselves alone, the matter would be of little real importance. The horror of it lies in the fact that they were administering the rights and properties of communities once flourishing but now compelled to look on in sullen despair.

Armed resistance seemed futile, for, although the black soldiers could be swept away in a white revolt, there stood behind the government the ever-present menace of Federal interference. The question who burned Columbia was still unsettled, but there was no doubt who would sustain the Columbia authorities. The present was dark, but there was nevertheless a restlessness which portended something in the future.

We leave North Carolina redeemed, but in South Carolina a blackness intensified by the muttering of thunder and the flash of not distant lightning.

CHAPTER XII

CIVIL ADMINISTRATION IN GEORGIA, ALABAMA, AND FLORIDA

THERE is no dull uniformity in the story of reconstruction administration in the South. We have found a contrast between North Carolina and South Carolina, and turning to what had been the old third military district we see variations of hardly less import. Georgia and Alabama extended from the mountains to the sea, and were in many respects alike. Both relied upon cotton as the main staple and in both were many negroes. Georgia's outlook was to the east through her fronting the Atlantic, while Alabama's was to the Gulf. Both States, and Florida also, had a Black Belt. In Georgia it was more to the south, in the ocean counties, while in Alabama it was toward the centre, about the main river basins, and in Florida toward the north, not far from the Georgia line. In characteristics the negroes were much the same in the three States, and if there was any difference among the whites it might be that the Georgians, older in Anglo-Saxon history and greater in number, had always been more restless and perhaps determined than either the Alabamians or Floridians.

Georgia had suffered more than Alabama or Florida from the war, especially in Sherman's March. She was restive even in the times of the Confederacy and under ordinary circumstances there could be no doubt that it would have been possible to build up a large party aligning itself with the Republicans. The war governor, Joseph E. Brown, for

instance, was a man of weight and influence, and, although he opposed negro suffrage, strongly advocated the acceptance of reconstruction as a fixed fact and pushing forward economic reorganization. If features prominent in other States were lacking, the reaching out toward a material future was perhaps more pronounced in Georgia. Atlanta, which had been burned in Sherman's time, became the business and even political capital, and railroad building, which was at least as marked in Georgia as elsewhere, brought new men to the front and gave promise of a great future.

The new constitution we have seen adopted and the Fourteenth Amendment ratified by a legislature elected by universal suffrage. Rufus B. Bullock had been successful over General John B. Gordon, and after the passing of the omnibus bill in Congress the new governor issued a call for the legislature to assemble. General Meade recognized the popular will by appointing Bullock provisional governor in the place of Ruger. Meade had at first directed that the legislature should take the ironclad oath, but on instructions from Washington did not enforce his order. On July 4th the legislature met and then immediately began the keen oversight of political affairs which was to characterize the new governor, for he reported both to Meade and to the legislature that some of the members elected were ineligible because disloyal. The two houses on investigation found otherwise, but, although this satisfied Meade, it did not satisfy Bullock. For the present, however, nothing further was done. On the 22d Bullock was inaugurated as the regular governor of Georgia, and a few days later the third military district was declared at an end. United States senators were elected, and would have been seated if the Senate had been in session, while Georgia's congressmen were duly admitted to the House of Representatives. Everything seemed auspicious.

The feeling against negro suffrage was strong even in this reconstruction legislature. When on investigation of the law the conclusion was reached that negroes could not

hold office, all of them were ejected who were members of either body. This might be considered as an answer to the governor's attempt to exclude members and had important results. When the senators presented themselves at Washington in the fall they found a letter from the governor opposing their claim on the ground that the legislature which elected them was not a valid one under the reconstruction laws. The senators were consequently not seated, although the Georgia representatives remained in the House. The position of the State was therefore anomalous, and, by a joint resolution, when the electoral votes were counted for president on February 10, 1869, the declaration was made by the presiding officer that including Georgia there were so many votes for each candidate, and excluding Georgia there were so many, but that in either event Grant and Colfax had received a majority.

A year before this Congress had proposed to the States what was to be known as the Fifteenth Amendment, and when it came before the Georgia Legislature in March, 1869, it was rejected. This could but add fuel to the flames. The recess of Congress prevented any action for the time being, but when it reassembled in the fall the contention of Governor Bullock was sustained by an act, approved December 22d, "to promote the reconstruction of Georgia." It directed that the governor should summon all such persons as by the proclamation of George G. Meade June 25, 1868, appeared to be elected to assemble at Atlanta and perfect the organization of the general assembly in accordance with the provisions of this act. Thus they should take a test oath which was much like the old ironclad oath, and, those who could not do so should be deemed ineligible. The exclusion of any person from participation on the ground of race, color or previous condition of servitude was prohibited as illegal and revolutionary, and upon demand of the governor the president should employ the military or naval forces of the United States to enforce the provisions of the act. The legislature as thus purged must ratify the

Fifteenth Amendment before senators and representatives would be admitted to Congress.

Bullock issued the necessary proclamation and on January 4, 1870, he had the pleasure of seeing the third military district revived on the theory that the attempted reconstruction of Georgia had not been carried out and therefore military rule had not properly been abolished. General Terry was placed in command and acted on the assumption that the military was supreme. He removed and appointed officials, permitted or prohibited legislation, and in general recalled the time of Pope.

On January 10th when the legislature assembled Governor Bullock appointed clerks *pro tem* and personally saw to the organization of each house. In emergencies he even had a committee of soldiers pass upon credentials and in some cases of ineligibility the minority candidates were seated, following the precedent set when the negroes were excluded. After the organization of the house to his satisfaction, Bullock saw to the ratification of the Fifteenth Amendment and the changes in the Georgia constitution required by the Omnibus Act.

This might almost be called the Long Legislature, if the length of its session should be considered, for it came together on January 10 and lasted until October 25, 1870. The *per diem* of the legislature was not increased beyond that of the provisional legislature, but by their remaining in session the expense amounted to \$979,055.00, five times as much as that of any general assembly up to that time in the history of Georgia. There was no doubt they effected a good deal of legislation, including a stay law, and revenue and appropriation acts.

A plan we find common to almost all the reconstruction administrations was to place as much power as possible in the hands of the governor. This was deemed good politics. The government might be secure at an election in which negroes participated, but so few whites belonged to the Republican party that in most places it was necessary to

supply officials from headquarters and not trust their selection to the local subdivisions of the State. Such was the case in Georgia, and therefore even the local election boards were appointed in part by the governor. The act forbade challenging, and another of the same session aided disqualified negroes by declaring void poll taxes levied up to that time.

The railroad legislation has been severely criticised. It was of the bond endorsement kind, from twelve to fifteen thousand dollars a mile. This endorsement was extended in 1868 to three railways, next year to four, and then to thirty more. The liability thus assumed was about six millions of dollars, and most of the railroads aided became bankrupt shortly afterwards. Perhaps even worse, however, was the management of the State Railroad, the Western and Atlantic running from Atlanta to Chattanooga, where it connected the Georgia railway system with western roads. It had been paying \$25,000 a month into the State treasury, when the governor saw fit in 1870 to make one Blodgett superintendent, and he discharged hundreds of the old employés to find places for Republicans, and increased the expenses so much that the State received little or no income, and the road soon fell into dilapidation. One of the railroad men of the epoch was H. I. Kimball, who, unsuccessful in his northern home, now managed, largely through railroad enterprises endorsed by the State, to become a wealthy and influential Georgian. He built an opera house, which he sold to the State for legislative uses, and a hotel which still bears his name; for like the Stantons in Alabama and Tennessee he emulated Fisk, of New York. Extravagance, if not worse, was the order of the day. Under the old law the State expenses were limited to three hundred and seventy-five thousand dollars, to which the taxes were adjusted. In 1867, this was increased to five hundred thousand, and in 1870 the tax rate was raised to two-fifths of one per cent, while the State bonded debt, apart from railroads, increased five million dollars.

A point upon which the reconstruction administrations prided themselves was the school system, designed to afford public education not only to negroes but to the white children, who, as they claimed, had before the war been reached only partially by private schools. In the Georgia constitution a poll tax was declared of one dollar to aid public education. This fund amounted in 1870 to two hundred and sixty-eight thousand dollars, but in that year the proceeds went to the members of the legislature and the teachers were unpaid. The school attendance at that time was a little over sixty-seven thousand white and ten thousand black, and, although it somewhat improved, it was never what it became after the whites obtained charge of the government.

The Senate judiciary committee in investigations as to senators sent from Georgia strongly disapproved the Bullock procedure, but finally July 15, 1870, Georgia was recognized as entitled to representation. Even then Bullock contended that this act was not effective until fall, when representatives were actually seated. In February, 1871, the United States Senate finally admitted Hill and Miller, who had been chosen in 1868, and this decision as to the validity of the older administration was soon confirmed by the people of Georgia, for at the election in 1871 the Democratic candidates were successful by a decided majority. Two-thirds of the legislators and five of the seven members of Congress fell to the Democrats. The continued rule by aliens assisted by the military had become distasteful to many Republicans also.

Even Bullock's ingenuity was now unable to defer long the time of reckoning, and he could only look forward to the impeachment which came to other reconstruction governors. On October 23d, therefore, he resigned his office by an entry on the executive minutes to take effect October 30th, and secretly left the State. He afterward explained his action as not due to fear of the Democratic legislature which was to meet on Monday, November 1st, but as a

plan to defeat any attempt at ousting Republican control. At all events Conley, the president of the last senate, on October 30th had himself sworn in as governor, and acted during the ensuing session of the new legislature. A bill was soon passed over Conley's veto providing for a special election, on January 11, 1872, the returns were counted and the next day J. M. Smith was inaugurated as governor. Thus ended reconstruction administration in Georgia.

It is difficult to weigh Bullock in historical scales. He was a man of ability, and it may be questioned whether personal venality can be charged against him; for when he came back in 1878 and stood trial on indictments, one was quashed and on the other two he was acquitted. Conscious of representing a minority, he resorted to technicalities to retain office. Possibly the most flagrant abuse to be laid directly at the door of the governor was in the number of pardons issued. They amounted in all during Bullock's term to three hundred and forty-six, some men being pardoned even before trial. Georgia, however, on the whole suffered from reconstruction less than most of the other States. Her loss was of representation in Congress and in annoyance from unsettled government rather than from speculation or waste of resources. As to the expenditures, the civil establishment, contingent fund, and printing showed a marked increase after 1866, and one of the most striking things about almost all the Reconstruction governments was the enormous outlay for printing. Considering that their mainstay, the newly enfranchised negro, could not read, there would seem to be no excuse for the expense. For this purpose Georgia in 1866 spent only one thousand dollars, but in 1867 sixteen thousand dollars, and in 1868 over twenty thousand. It fell under eight thousand dollars in 1869, but then rose to sixty thousand dollars, subsiding to twenty thousand in 1871. It cannot be said that property was depreciated, or, more properly, it may be said that the valuation increased despite Bullock's administration. Thus, in 1868 the total assessment was one hundred and ninety-one

millions, next year over two hundred millions, and during the two succeeding years it increased twenty and eight millions respectively.

The reconstruction history of Georgia, therefore, was notable for the length of time consumed in organizing a government satisfactory to Congress, and not, as usual elsewhere, in the length of mal-administration by that government after it was organized. The interest is principally in the ingenious fencing of Bullock, for as soon as an election was held the whites resumed control of the government, and the future, for better or for worse, was in the hands of native Georgians.

In Alabama the conservative plan for defeating the constitution by abstaining from voting had not only failed as to that instrument, but had resulted in letting the election for State officers go by default. As a consequence, the legislature which met July 30th, 1868, was made up in the Senate of thirty-two Republicans and one Democrat, in the House of ninety-seven Republicans and three Democrats. In the Senate there were nine or more northern men, and only one negro, but in the House were twenty-six negroes, some of whom could not sign their own names. The speaker who acted longest was George F. Harrington, late commander of a negro regiment. The same default had occurred in the election of county officers, and the whole State suffered greatly during these two years. The disfranchisement of the whites was bad enough elsewhere, for it gave but a limited field of choice among candidates for office; in Alabama the situation was possibly the worst of all, because the whites had almost wholly abstained from participation in the election.

It is said that not a Freedmen's Bureau agent failed to get an office. In Perry County most of the officials were soldiers of a Wisconsin regiment mustered out in the South; and the circuit clerk was under indictment for horse stealing. In Greene County a superintendent of education had to be imported under contract from Massachusetts. In

Sumter County a man who had a negro wife was registrar, superintendent of education, postmaster, and circuit clerk. One elected probate judge went home to Ohio after the supposed rejection of the constitution and never returned, and the sheriff and the solicitor were negroes who could not read. Another Radical was at once circuit clerk, register in chancery, notary public, justice of the peace and keeper of the county poorhouse. In Elmore County the probate judge was under indictment for murder, in Montgomery the circuit clerk killed his brother-in-law and tried to kill the collector of internal revenue. The Radical chancellor was a former slave trader, while the marshal had been a divine-right slave owner. The sheriff of Madison County could not write and in Dallas illiterate negro county commissioners voted for a higher rate of taxation although their names were not on the assessment books. Fortunate was Wilcox, of whose northern immigrants many were good men and gave the county an exceptional administration.

Only loyal preachers acted as chaplains to the legislature, and even then Paul Strobach, an Austrian who represented Montgomery, moved that the chaplain make his prayers shorter. The members paid little in the way of taxes and their interest in legislation was confined to their *per diem* and to bribes, which, although not as unblushing as in South Carolina, were rank enough, particularly in regard to railroads.

Political legislation was the order of the day. Thus, an election law was passed which in the first place failed to affix a penalty for false voting and in the next permitted registered electors to vote outside of their own precincts. Subsequently the law even forbade challenging, with the result that repeating or false voting was encouraged, and unprincipled leaders of the negroes took every advantage. When this was not effective enough, as in Mobile, where Democrats were in the majority and active, the legislature repealed charters and gave to the governor the appointing of officials. Mobile was to suffer at least three times in this

manner. Similarly anti-Ku Klux legislation was passed and a militia act, under which Dustin, of Iowa, was appointed major general and a system elaborated, particularly in the black counties. Governor Smith, however, was not inclined to favor the blacks if he could get along with white allies. He declined to make use of the negro militia, and, after the election of Grant as president, frequently called on the United States troops. In filling vacancies he would sometimes appoint Democrats, for factional disputes ran high in his own party. In a letter to the *Huntsville Advocate*, dated July 25, 1870, the governor denounced Senator George E. Spencer, J. D. Sibley, and other prominent Radicals as "systematically uttering every conceivable falsehood. . . . During my entire administration of the State Government," he said, "but one officer has certified to me that he was unable, on account of lawlessness, to execute his official duties. That officer was the Sheriff of Morgan County. I immediately made application to General Crawford for Federal troops. They were sent, and the said sheriff refused their assistance. . . . My candid opinion is that Sibley does not want the law executed, because that would put down crime, and crime is his life's blood. He would like very much to have a Ku Klux outrage every week to assist him in keeping up strife between the whites and the blacks, that he might be more certain of the votes of the latter. He would have a few colored men killed every week to furnish semblance of truth to Spencer's libels upon the people of the State generally. . . . It is but proper in this connection that I should speak in strong terms of condemnation of the conduct of two white men in Tuskegee a few days ago in advising the colored men to resist the authority of the Sheriff; and these are not Ku Klux, but are Republicans."

At the election in 1870 Robert B. Lindsay was the Democratic candidate against Smith and received seventy-six thousand nine hundred and seventy-seven votes against seventy-five thousand five hundred and sixty-eight. Parsons had then

become a Radical and was active in support of Smith, and the president of the senate at his instance was enjoined from counting the returns for governor; but the other votes were canvassed and the Democratic lieutenant governor, E. H. Moren, declared elected. Moren took the oath, assumed the chair, and, as he had not been enjoined, directed the vote for governor to be counted; and thus Lindsay was also declared elected. Smith, however, retained possession of his office with the assistance of Federal troops, and Alabama enjoyed two governors until proceedings undertaken before a Republican circuit judge at Montgomery resulted in the retirement of Smith.

Lindsay was a Scotchman who had long been in Alabama, and, although he had opposed secession, was nevertheless a weak man. A much stronger character, however, would have been unsuccessful as governor with one house Radical and the other Democratic, especially as in the State at large many of the old officials held over. One of the most troublesome questions to be faced by the new administration was the State indebtedness and particularly that growing out of aid extended to railroads, as to which the situation was in many respect typical of that in all the Southern States.

Originally there were but two railroads in Alabama, one in the Tennessee valley running east from Tusculumbia to avoid Muscle Shoals, and the Mobile and Ohio extending northwestwardly into Mississippi, the two together being hardly one hundred and thirty-two miles long. By 1860, however, there was six times as much trackage, divided among eleven roads. During the war there was a little new grading and construction to make better connections, but it did not amount to much, and by the end of that struggle the tracks and rolling stock were almost worn out, where they were not actually destroyed.

Alabama therefore offered a good field for railroad development. Beyond the rough mountain and valley country to the north was the smiling Tennessee valley, having little

in common with the other river basins, and supposed to have aspirations toward deep water at Savannah rather than Mobile. There was politically a strong endeavor to unite the two sections by a railroad, which developed into the South and North Alabama enterprise. The central portion of the State was called the Cotton Belt, dependent upon the rivers, their depth of water varying with the seasons, all leading ultimately to tidewater. A more certain connection was planned between Montgomery and Mobile, although the road as originally built ended on the south some miles above that port, because of the difficulty of building bridges across the large delta system of Mobile River. Smaller roads formed a kind of system from Meridian, eastwardly to Opelika and the Georgia line, through the heart of the Cotton Belt. A favorite scheme had long been a road running diagonally across the State from Chattanooga in Tennessee toward Meridian in Mississippi, of which pieces had been constructed. This was to develop ultimately into the Alabama and Chattanooga Railroad.

The provisional legislature took up the matter and by an act of February 19, 1867, authorized the governor as sections of twenty miles were built to endorse first mortgage bonds of railroad enterprises at the rate of twelve thousand dollars a mile, the bonds to be sold at not less than ninety cents on the dollar, and the proceeds to be used only for construction and equipment. To safeguard the interest of the State, he should appoint two of the directors of each road.

Such was the situation when the Reconstruction legislature assembled. The presence of ignorant negroes, unprincipled aliens, and natives who had never been in public life before, offered a tempting field for speculators, and from this time on promoters were assiduous in their attentions. Accordingly the two acts of August 7 and September 22, 1868, improved on the old law by increasing the endorsement to sixteen thousand dollars a mile, to be effective as five mile sections were completed, and the diagonal

railroad enterprise was given the further inducement of endorsement for twenty miles outside the State. Governor Smith was not satisfied with this law, and stated in a message that he thought the result would be the railroads would depend entirely on the endorsement, and the auditor reported that the average value of railroads was not over thirteen thousand dollars per mile. The general assembly, however, adhered to the old system except to require that proof should be made that the five mile sections had been built and the new railway was in good order before the securities were issued. The bonds were to carry a first lien in favor of the State, which the governor should enforce in case of default; but such safeguards were systematically disregarded, and in a later act everything which had been effected for railroad purposes was ratified. Under this legislation a good deal of construction was begun and a great many bonds endorsed. Governor Smith, despite his good intentions, was careless in exacting proof of completion of railroads, and hundreds of thousands of dollars in bonds were improperly issued. His successor endeavored to stem the tide and exercise some supervision over the matter, but the damage had then been done.

Almost all roads received something, most of them to their value. Thus the South and North Alabama Railroad in 1868 was granted what was left of the two and three per cent fund donated by Congress from the five per cent sales of public lands, reserved for public purposes when the State was admitted into the Union, and in addition received endorsement at the rate of sixteen thousand dollars a mile. Later even this was increased. Subsequent investigation found that this enterprise had by means of bribery secured endorsement to the extent of two million two hundred thousand dollars on one hundred miles of road. Treasurer Bingham, late of Ohio, when called to testify on the subject found it proper to claim his privilege of refusing, on the ground that it would criminate him. Governor Lewis in 1873 said that the road was endorsed for over four millions

of dollars, and thus had received two millions more than it cost to build the road. The little Selma and Gulf, forty miles long, was endorsed to the extent of six hundred and forty thousand dollars, and the road was valued at two-thirds less than the endorsement. The Grand Trunk, extending fifty miles northwardly from Mobile, was endorsed by the State for eight hundred thousand dollars and the City of Mobile also issued to it a million dollars of bonds, while the value of the road was only seven hundred thousand dollars. The celebrated General N. B. Forrest was placed at the head of the Selma, Marion and Memphis Railroad and he labored for years to insure its success; but, although endorsed for over seven hundred and sixty-five thousand, it finally failed and Forrest surrendered all of his property to aid in paying the debts. The Mobile and Montgomery Railroad was aided to the extent of two millions and a half, but it was already completed and thus worth the amount of the endorsement.

Somewhat the same story could be told of other railroads, but the most striking was that of the Alabama and Chattanooga. At first Ex-governor Patton was president, but he opposed some of the legislative measures and was displaced in favor of Stanton, who had financed it in Boston and was probably author of the law raising endorsements from twelve thousand to sixteen thousand dollars a mile. The part of the road near Chattanooga was only rented and was subject to a claim by Georgia, while other portions were old enterprises taken over. Governor Smith reported that he had endorsed the Alabama and Chattanooga Railroad for four million dollars, covering two hundred and fifty miles, when in point of fact investigation showed only one hundred and fifty-four were in Alabama, and he had issued bonds to the extent of four million seven hundred and twenty thousand dollars. Nor was this all, for two millions of State bonds were appropriated to this enterprise, and they were by no means all used on the road. Part of them built a hotel and opera house in Chattanooga and many were sold

in Europe for other purposes. The Stantons had no money except what was appropriated by the State and resorted to unblushing bribery of legislators. On one occasion a bill failed, and the next day a reconsideration was effected and the bill referred to a committee with directions "to report within fifteen minutes." The committee reported favorably and the bill passed. The fifteen minutes' report was secured by a corruption fund of \$35,000.

The State records were badly kept. Governor Lindsay reported that he could not find a scratch of a pen as to endorsements, for Smith left no records and in 1871 the auditor's office showed endorsement only of the Mobile and Montgomery Railroad. All that could be found were certificates of railroad presidents that "five more miles of the railroad had been finished", and upon each of these warrants for eighty thousand dollars would be drawn, without proof of completion of bridges, equipment or anything else.

The later history of this road is instructive. In January, 1871, it defaulted and Governor Lindsay had to go to New York to ascertain which of the bonds issued were valid and which fraudulent. He recognized the first four million dollars of endorsements and the two thousand State bonds, but rejected the rest, and legislation in that year directed the governor to pay interest on such bonds as were in the hands of innocent purchasers. In July, Gindrat, his secretary, seized the road, which had already ceased running, but it was only seizing a lot of litigation. Governor Bullock, of Georgia, refused to operate his part of the system in connection with that in Alabama, and in 1872 the United States court through receivers took possession on behalf of the first mortgage bondholders, and authorized certificates to the amount of \$1,200,000 in order to put the road in operation. It was not until 1876 that the tangle was straightened out, when the State finally relieved itself by turning over its claim and one million dollars of bonds to the first mortgage bondholders.

The story of railroad endorsement does not stop here, for an act of December 31, 1868, authorized counties, cities and towns to subscribe to the stock of railroads running through them, after the proposition had been approved by the vote of the people. Mobile was the largest sufferer. A fraudulent contract of a million and a half in favor of the Grand Trunk Railroad was validated by the legislature in 1870, and so high became the railroad fever of the period that two years later a similar project in favor of the Northwestern Railroad was voted by a Democratic legislature. Little of the Grand Trunk was built and of the Northwestern no part except a mile of track through the city and the roadbed graded a few miles outside. The first was never operated, the second only for a few months, but the debts have ever since been represented in the city's indebtedness. Ultimately Mobile, Selma and Opelika could not pay the interest on such debts and were deprived of their charters until a readjustment could be effected. Several counties in the eastern part of the State, such as Randolph, Chambers, Lee and Talladega, as well as Pickens in the western, were so overburdened as to receive the name of "strangled counties"; for the United States court held their railroad obligations binding, and they required special relief legislation.

Railroad speculation swept the South at this time. Not a few southern leaders believed that the future of their States and districts depended upon the development of transportation facilities in this manner. The Grand Trunk project, for instance, at Mobile, was under the management of respected citizens, and not all the promoters, although probably the majority of them, were from the North. There can seldom be a sharp distinction between political parties in questions of right and wrong, although in the long run the policies favored by the one may prove to have been wrong in morals as well as in economics. The Reconstruction legislature could fairly claim that the germ of the railroad policy of the State was to be found in an act of the

Patton assembly, and they were to claim that the foundation of the lottery schemes dated back to 1866. It was nevertheless true, however, that the development of such schemes was immediately due to the vast expansion given them by the Reconstructionists, and that the pity of the situation was that the legislatures from 1868 on were made up of such people, white and black, as were unable to resist the inducements of those, whether from the North or South, who sought profit at the expense of the people. It cannot render the scene less striking or the responsibility smaller that measures they set on foot demoralized not only the blacks but the whites, not only the poor but the rich, to such an extent that even representative legislatures could hardly bring themselves to undo what had been created by unrepresentative bodies.

The desire of Alabama for better transportation facilities after the war was natural, for the need was real, but the administration of the laws passed to secure this end was hopelessly corrupt. Had it even resulted in the building of the roads, much could be forgiven; but in many cases the railways were not built at all, and, even when they were, it was only with such part of the public money as schemers were willing to use in order to keep up appearances. In no instance was the road worth more than had been donated by the State, and in many it was worth considerably less. The total indebtedness of the State of Alabama by endorsement was seventeen millions of dollars, and to this must be added millions more for aid given by the counties and towns.

One of the subjects for which reconstructionists in the South took greatest credit was that of public schools, and the new constitutions uniformly contemplated a fuller measure of public instruction than had been known before. Education had not been neglected in Alabama before the war. The germ of it was found in the public school system at Mobile, which had been instituted early in the century although not in full working order until the fifties. The

State system, modelled on it, was adopted in 1854 and within a year or two was in full operation. Thus the school fund for 1855 was \$237,515 and the next year somewhat greater, with an attendance of about one hundred thousand, which was one-fourth of the white population. Instruction was not in all instances free, being supplemented by tuition paid for by such as could afford it, and the fund gradually increased each year down to the Civil War. There were over two hundred academies, enrolling over ten thousand pupils, and in addition several colleges, State and denominational, in which were over two thousand students. The schools were partially kept up during the war, although much impaired in various ways, for the young men went to the army and parents could hardly spare their children, and finally came the destruction of many public buildings, including colleges and school houses, in the Federal raids. After the war the Medical College at Mobile was used by the Freedmen's Bureau for a negro school for several years, while on the other hand the trustees attempted to reopen the university, despite the loss of most of the buildings. The provisional government tried to restore the old system, with separate schools for the white and for the black children. The white leaders were convinced of the necessity of general education.

In 1868, the system was changed in many respects. Control of public instruction was given to what was called a Board of Education, made up of a superintendent of public instruction and two members from each of the congressional districts, all elected by the people. The board was a complete legislature, for its enactments were laws. It could even override the governor's veto by a vote of two-thirds, and the general assembly supervised only to the extent of a possible repeal. Amongst its duties the board was to establish one or more schools in every township, and the school fund was declared to be one-fifth of the entire State revenue, besides proceeds of school lands, poll tax, and certain special taxes. A novel expedient for developing education was the

chartering of lotteries, designed to distribute books, paintings, prizes, etc., for which purpose the Mutual Aid Association, for instance, was to pay two thousand dollars in aid of the schools. These were modelled on a scheme of the legislature of 1866 for the benefit of the University. In 1868, several such institutions were chartered, although the purpose was concealed. During the existence of these organizations they were subject to the commissioner of lotteries, which office was created about the same time. These schemes did infinite harm in demoralizing the population, white and black, before repeal of this legislation in 1871.

The administration of education, in consequence of the action of the Conservatives in not voting, fell into bad hands. Thus Dr. N. B. Cloud, an old Alabamian of no repute, ideas, or ability, became superintendent, and, as his appointees in the sixty-four counties were much like himself, the new system began under unpromising auspices. The schools, however, were opened and his report a year later spoke of the constitution of 1867 as "a glorious document" whose provisions for education were the first blow struck in the South to clear out ignorance and its evils, although his agents, whom he does not always defend, met with opposition, particularly in white counties. To enforce the new system all of the offices had been vacated by the school board. Coöperation with the Freedmen's Bureau and the northern missionary schools was sought, and to carry this out the arrangement was made that their superintendent of education should be himself under the supervision of a State superintendent of public instruction.

One of the most interesting subjects related to the negroes. Clanton, Gordon and Falkner, well known ex-Confederates, from an early date advocated negro schools, and ex-Governor Moore and J. L. M. Curry helped on the cause. Clanton testified that at first many Confederate soldiers and widows were teaching negroes and in Selma the negroes desired southern whites to teach them. In some parts of the State, particularly in the Black Belt, white committees coöperated

with the blacks in building school houses. The practice was universal to have separate schools for the two races, and even after the new constitution a law of August 11, 1868, directed that this should be done unless the parents preferred otherwise, which seldom, if ever occurred.

Gradually, however, southern influence in the schools was neutralized. The Freedmen's Bureau and the northern societies deemed southern influence improper inasmuch as it did not favor the equalization of the races. The negroes adopted this notion and as in the churches so in the schools came to have organizations independent of the white people. This was, no doubt, an honest feeling on the part of many of these northern missionaries, but in so far as it tended to separate the races it had the bad effect of alienating the negroes and by reaction the whites also. There came to be a strong feeling that "schooling ruined the negro", and, when his schooling was directed toward classical courses which could not possibly do him any good, instead of toward mechanical and industrial education which would have helped him, the feeling can readily be understood. The southern reaction went so far as to refuse social recognition to the northern teachers, and this resulted in driving them toward closer association with the negroes. This was unfortunate in every point of view.

The attempt to make the Mobile schools a part of the State system was itself a troublesome matter. G. L. Putnam was connected with the Emerson Institute, an enterprise of the American Missionary Association, and, when the school board abolished all existing offices, Cloud appointed Putnam as county superintendent. The old corporation would not recognize Putnam, and on the other hand, as he could not make bond, he was unable to disturb them. Cloud then undertook to compromise matters by appointing one of the old school commissioners county superintendent and making Putnam superintendent of negro schools under the old board, while the teachers of the Emerson Institute, or Blue College, were to be paid by the State. Putnam did not

carry out this in good faith. He was willing to have the local board pay the teachers and pay rent for the building, but not to supervise his system, and the result was that the school commissioners refused to recognize the Putnam schools and the matter went into the courts. The school commissioners were put in jail, and when the Supreme Court reversed this, the Board of Education on November 13, 1869, formally abolished the separate system of Mobile. Legislative investigation later showed much mismanagement and dishonesty in the Putnam schools, but even more in the State at large, where the loss amounted first and last to hundreds of thousands of dollars.

The administration of education was unsatisfactory in other respects. For one thing, the attempt was made in the white schools to use text books which inculcated unfavorable if not untrue versions of the Civil War. The books furnished for the use of the negroes were even yet more objectionable, and this led to a great increase of prejudice between the races.

The attempt was even more unsuccessful in higher education, particularly in the State University. When only one student appeared in 1865, the trustees devoted themselves to the restoration of the destroyed buildings, with such success that in 1868 they were about to open the University when the Board of Education took charge. Then for some years there was nothing but uncertainty and trouble. The acting president would not serve under them, and a Methodist preacher from the North named Lakin obtained the place. The *Independent Monitor*, a local newspaper, voiced and increased the current dissatisfaction by publishing a picture of a carpetbagger and a scalawag hanging from a tree, and this had great campaign influence at the North. It was not found necessary, however, to carry out the threat, for the Ku Klux made Lakin leave Tuscaloosa, although he did not resign, and in more propitious times afterwards claimed his salary. Under such circumstances the University languished for several years.

In 1870, Cloud was defeated and the Democratic candidate, Joseph Hodgson, elected superintendent of education, who exposed the mismanagement of the preceding administration and was able himself to effect a great deal in the way of reform. A State teachers' association was formed, normal schools established, private aid kept many schools open which would have otherwise been closed, and expenses were decreased, often more than half. The success of the Republicans in 1872, however, made Joseph H. Speed superintendent, and under him many schools, especially for the negroes, were forced to close on account of the bad condition into which the State finances had fallen. Thus, for instance, the taxes which should have gone to the schools were used in other directions.

Speed kept no records of attendance, but we learn that the average enrollment in Cloud's time was about thirty thousand whites and sixteen thousand blacks, while under Hodgson it was over sixty-six thousand whites and forty-one thousand blacks, and later, under the Democrats again, the attendance rose to ninety-one thousand whites and over fifty-four thousand blacks. The average school term under Cloud was forty-nine days, and under Hodgson about sixty-five days. The school appropriation, although required by the constitution to be one-fifth of all revenue, did not amount to as much as before the war, and during all the Reconstruction period averaged annually about five hundred thousand dollars.

In 1872, the South was under the grip of the Enforcement Act. The Radicals were much encouraged and the whites correspondingly depressed. The Democratic candidate for governor was Thomas H. Herndon, who made a brilliant canvass, but as a South Alabama man did not draw out the vote of the Tennessee Valley so well as did his North Alabama opponent, D. P. Lewis. The legislature seemed to be Democratic in both chambers, and assembled according to custom in the capitol, where they proceeded to count the votes. They declared the Republican candidate

elected, and Governor Lewis and Lieutenant Governor McKinstry accepted the result, but then not only declined to recognize the legislature but did recognize certain Radical members who met at the United States court room without a quorum in either branch. The principal cause of the dual legislature was the wish of Spencer to be reelected United States senator, and by counting in others as members this was secured at the court house.

The history of the South during reconstruction administrations was kaleidoscopic in its changes and dramatic in the situations and leaders it produced. There were soldiers ready at a moment's notice to resume their place in the ranks and fight for their homes, there were not a few politicians on both sides aiming at the spoils of office, and sometimes there were men of ability called from private life to direct public affairs. At this crisis Alexander McKinstry, a Mobile lawyer of force and ability, led the Radicals, and on the other side was the senator from the same city, Peter Hamilton, one of the purest men of the State, *teres atque rotundus*. He was a lawyer of the highest standing, as incapable of seeking office as he was of shrinking from any duty that came to him. This senator was instinctively recognized as the Conservative leader. Interest was widespread. The white men of the State were organized into militia companies as well as in more secret societies, and a word would have overthrown the radical administration; but after that might come Federal intervention. State troops were offered Hamilton, but he said he would seek a peaceful solution.

He went to Washington and laid the matter before the president and Attorney General Williams, who admitted the legal correctness of the Democratic contention. A compromise was agreed upon by which both legislatures should meet and organize in common. On Hamilton's return this was carried out, only to have its spirit violated by the seating of a Radical contestant by breaking a pair. Federal troops were brought into the building and McKinstry announced the senate to be permanently organized with a Republican

majority of one. At Washington Spencer was able to retain his seat over the contest of Sykes, who had been elected by the capitol legislature, but at Montgomery the Conservatives henceforth controlled the house and exerted a modifying influence in the senate. The administration of Lewis, however, was essentially Radical and this period is one of the darkest in Alabama politics.

The economic conditions of the seventies were disastrous. Poor crops from 1871-1874 caused great distress, and the Black Belt fell more and more behind. Many of the negroes themselves moved away or became of less use to themselves and others, for the "dead fall", at which stolen goods were exchanged for whiskey, became the curse of the country. The white land owners sought the advantages of cities and towns, leaving the negroes as tenants, and the transportation improvements sought the timber of the coast and the mineral regions of North Alabama rather than the Black Belt. Mining and other enterprises increased in the white rather than in the black counties. Emigration began again and the State is said to have lost more by a movement to Texas and elsewhere than by deaths during the war.

The lowest depth seemed to have been reached. Not only had the native whites been driven from the Radical party, but the negroes had learned the political trade themselves. Even the carpet-baggers were losing their hold and by 1874 the negro unions and conventions demanded equal rights for the blacks. It was with difficulty that they could be kept subordinate so as to hold the North Alabama whites in the Radical party, and even "election bacon" distributed under the guise of Federal aid to imaginary overflowed districts was not always effective. The Radicals had become practically a Black Man's party, and the black man was insisting on civil and social identity with the whites. The demand was for fraternity. Republican leaders reported frequent outrages and President Grant directed the army to be held in readiness for any call to repress southern atrocities. Whether these were real or fictitious, the cry was

symptomatic. The present was gloomy and the only hope was that its very hopelessness might cause a reaction. Such was Alabama during the term of Governor Lewis, and he was a candidate for reelection.

South of Alabama, between the Gulf and the Atlantic, lay Florida, with a history going back to De Soto. The State was large, but was as thinly populated after the American Civil War as it had been before, for the registration under the provisional government was about eighty-five hundred and even under the Reconstruction Acts of Congress not much more. There were, however, some elements of the reconstruction story worth the telling, the more so as we have an account from one of the negro participants.

The freedmen played proportionately as large a part as in South Carolina. Even in 1866 one of their number was in the A. M. E. Church at Tallahassee chosen member of Congress, and promptly started on the usual career of living at public expense, although he never even went to Washington. Federal agencies throughout the State were universally corrupt. Thus, the land office issued certificates which by every one except the negroes receiving them were known to have no value. When the Freedmen's Bureau was entrusted with the distribution of meat and flour for destitute freedmen, Agent M. L. Stearns misused, appropriated and sold the supplies for his own benefit. Even before Liberty Billings organized the Loyal League, Bureau Commissioner Thomas W. Osborn created in a Tallahassee Baptist Church what he called a Lincoln League, and systematically used it for political purposes, and W. J. Purman, the Freedmen's Bureau agent at Marianna also became prominent in similar work. These events of 1866 were the foundation of the influence which Osborn exercised as the head of a political ring, and of the power of what was called the Mule Team faction, headed by Billings. These men taught the negroes not only equality of every kind, but that the lands of the late masters were to be divided out, and it is not too much to say that all were intent upon public

plunder. Even in 1866 they were gifted with a prophetic vision of the power to be wielded if the negroes were given the right to vote and acted accordingly.

Even in the constitutional convention the temporary officers were negroes and negroes were given a prominent place in the proceedings. The saying became common in Florida as elsewhere that "the bottom rail was on top," but the alien whites saw to it that the paying offices were secured by themselves. Upon the adoption of the constitution in 1868 Harrison Reed became governor and exercised a controlling influence for a number of years. He soon fell out with Osborn, Purman and their friends, and was under a continual threat of impeachment. Resolutions were passed more than once, and in 1872 there came almost civil war. The accusations against the governor were of bribery and corruption, mainly in connection with railroad legislation, but at last the accusers failed to make good their charges, and he was discharged by the court of impeachment.

Reed began his administration with two competent Democrats in his official cabinet, Gamble as comptroller, and Wescott as attorney general, and there was need of every break-water possible. The senate held up all appointments which were not satisfactory to them, and legislation was corrupt almost from the first. The negro Jonathan C. Gibbs was made Secretary of State in 1868 and proved to be an able official and an active supporter of Governor Reed throughout his troubles. It was not long before the blacks drew the color line and voted for men of their own race regardless of fitness. In Florida, as elsewhere in the reconstructed States, the governor was by constitution and legislation given large powers, and Reed exercised these freely, especially in removal of officials hostile to himself. He attempted to provide arms for his militia, but some enemy saw to it that the train was wrecked which bore his purchase, and the supplies were scattered and ruined. There was need of effective State troops. In Jackson County there came a race war of considerable proportions and fierceness,

encouraged if not instigated by State officials for political purposes. Perhaps even worse was the internal corruption, which no arms could reach.

As early as 1855 the State had enacted an internal improvement law, by which vast grants were made to proposed railroads and the lands excepted from taxation. Not much had been accomplished before the war in this direction and after Reconstruction it was found impracticable to handle the lands to advantage; so that finally the plan was adopted, prevalent in other States, of issuing bonds to the companies at sixteen thousand dollars a mile, and, in order to protect the State, receiving back a first mortgage on the roads. Aid was not confined to new railroads, but given to old ones also and jobbery prevailed through all stages of this legislation and of its administration. Littlefield and Swepson extended their operations from South Carolina to Florida, and a letter of Swepson to the governor, which was conclusive if not a forgery, played a great part in the impeachment attempts. The Internal Improvement Board at one time sold one hundred thousand acres of land at ten cents an acre, and of the four million dollars of bonds issued to the Jacksonville, Pensacola and Mobile Railroad almost three millions were misused. At first it was said that the State was not injured, because it held a first mortgage, but later it was found that the railroads had not been finished and if sold must be sold at a great sacrifice.

In 1869, Stearns became speaker of the House of Representatives and the Osborn Ring were in complete control. It was at this time there came the interesting negotiations between Alabama and Florida as to the cession of Florida west of the Chattahoochee River for a certain amount of Alabama bonds, a project approved by West Florida. It came up afterwards in different shapes, and there is good reason to believe that it failed finally in 1873 only because the representatives of peninsular Florida were not sufficiently bribed. As a historian of that day expresses it, the Alabama commissioners "did not talk turkey."

It was the climax of Reconstruction politics. Bribery was notorious. Sealed envelopes containing one hundred dollars or more were freely handed around on the occasion of any important legislation. The negro members accepted money without shame, and the blacks of Tallahassee and vicinity were urged on by their leaders whenever necessary to intimidate the legislature. Violence by negroes to negroes was common inside and outside the assembly halls, and, according to their own accounts, the negro delegation from Leon County, in which was the capital, had a difficult time preserving independence of thought and action. To the American freedman politics had become a part of his religion. The fanaticism of Dahomey and Ashantee had changed its form but not its substance.

The attempts to impeach Reed failed, but under the constitution of Florida resulted at last in his suspension from the duties of office for a time long enough to serve the purpose of his opponents. O. B. Hart became governor in 1873, the first native of Florida occupying that position, and soon there came a slight rift in the clouds, due to quarrels of the Radical factions. Conover, himself not at all above reproach, was by collusion with the Democrats elected United States senator instead of Osborn. Hart did not long hold office, for he died the next year, as did Gibbs, not without suspicion as to the manner of his death, and, when Speaker Stearns succeeded to the gubernatorial chair, instead of King Log there was King Stork.

There is good reason to believe that most of the rascality of that period was due to the alien whites, commonly known as carpetbaggers, who inspired the negroes with false notions of all kinds and taking advantage of their credulity attempted every form of public plunder. But there is no doubt that the freedmen were apt scholars, and their partial revolt in later years was due more to not receiving a fair share of the offices than to any scruples as to the management of affairs. Even the public school system was prostituted to political use. The negro children were distinctly

taught hostility toward the whites and the school teachers made political agents for their Radical masters.

There was a full trial of the theory that the way for men to learn how to vote is to vote. The power of ignorance, of money, of leaders had been considered by Thaddeus Stevens as a negligible quantity, and now from the victims of that policy was going up the despairing cry, How long, O Lord, how long?

We have passed in review the events connected with reconstruction in Georgia, Alabama and Florida. We anticipated that the more striking history would be that of Georgia, while it has turned out that her story hangs about the personality of one man, Rufus B. Bullock. Released from his ingenuity and ability, the whites earlier than in the sister States resumed control of the government. On the other hand, at our general resting place of 1874 we leave both Alabama and Florida under Radical rule. In Alabama the striking features were those connected with railroad development and educational attempts, and in few States was the mismanagement greater or the results worse. In Florida both of these features were marked enough, but the element most attracting attention was the factional struggle of the Radicals themselves. So secure were they in their control of the State that they could afford to quarrel with each other, and still quarrelling we leave them. Could the other States add any new touches to the picture of Reconstruction?

CHAPTER XIII

PERSONAL RULE IN ARKANSAS AND LOUISIANA

PARTS of the old fourth and fifth military districts were yet to be duly reconstructed while other fragments survived for a while in Mississippi and Texas. We therefore cannot further proceed by districts, and in our progress southwardly have to group together the two States of Arkansas and Louisiana. Of these Arkansas was younger and had been built up by Anglo-Saxon immigration to the Mississippi and Arkansas Rivers, while in Louisiana, then as always, the French strain was predominant. Nevertheless the two States had much in common. Large portions of both had been at a comparatively early date subjected by the Federal armies, and in each had been attempted the Lincoln restoration. If it was in Louisiana that General Banks had tried the first experiments in economic reorganization of the Africans, in Arkansas no less than in Mississippi similar attempts had been made during Grant's campaigns about Vicksburg, and the declared policy of lining the river with a loyal population applied to all three States.

It is true that the ten per cent electorate had not proved successful, nor had it commended itself to Congress. The return of the Confederate soldiers from the field had swamped the new Republican party and at the time of Johnson's restoration of State government placed the rebel element back in power. And yet the war policy, adopted at the time of opening the Mississippi, of organizing loyal

governments, successful from Missouri to the Gulf except in Mississippi, must have left some influence among the whites, and, when the reconstruction law gave the ballot to the negroes, it turned the balance in Arkansas and in Louisiana's African-infested parishes seemed to settle the future.

The administration in Arkansas, as in Florida, hinged on the personality of political leaders. The same election that adopted the constitution in 1868 brought Powell Clayton into the governor's chair, backed by a legislature with only one Democrat in either house. The principal matter of interest at first was that of refunding the public debt, which was in confusion on account of hypothecation and rehypothecation of five hundred thousand dollars of State bonds loaned a bank many years before. By inducements which were not uncommon in reconstruction times an act was passed for the issue of bonds to the amount of one million three hundred and seventy thousand dollars to fund the old debt and interest. This created great dissatisfaction among the people, and made Clayton unpopular.

Nevertheless in 1871 he was elected United States senator, although, on account of a factional quarrel between him and Lieutenant Governor Johnson, he did not accept. The governor and lieutenant governor vied in endeavoring each to secure the impeachment of the other, but both without success. Finally they called a truce, Johnson became secretary of state, and, when the succession was thus arranged to his satisfaction, Clayton consented to be senator. This quarrel was entirely factional, as both men were Republicans and not only in 1868 but in 1872 Grant received the electoral vote of the State.

In the latter year the gubernatorial contest was between Elisha Baxter on the one side and Brooks on the other, both Republicans, but Brooks as the less radical was supported by the Democrats. There was much irregularity, not to call it worse, in both registration and counting of ballots, but Baxter prevailed by some three thousand votes. The legislature, which was Republican, canvassed

the votes, declared Baxter elected, and rejected Brooks's petition for leave to contest. An attempt was made to have Congress investigate the election, and when that failed, the matter got into the courts. Application was made to the circuit court and then to the supreme court, both without avail, until finally Brooks sued for damages under an old statute. He was successful in some of the early proceedings and in Baxter's absence adopted the bold step on April 15, 1874, of taking possession of the governor's office, records and State seal. Baxter, however, promptly established headquarters elsewhere in Little Rock, and both governors applied to the president for recognition. Grant suggested a compromise but it was not acceptable, and when the legislature met it declared Baxter governor. The president thereupon recognized Baxter as the chief executive and commanded the Brooks faction to disperse. This was effective.

A constitutional convention had been proposed and it was carried by a vote of eighty thousand two hundred and fifty-nine to eight thousand six hundred and seven. July 14th it met, composed of ninety-one delegates, and decided changes were made in the constitution, all looking to greater freedom. Thus, the proscriptive provisions were abolished and the power to appoint many State officers taken from the governor and restored to the people. The new constitution was adopted in the fall by a vote of seventy-eight thousand six hundred and ninety-seven against twenty-four thousand eight hundred and seven, a result which showed the changed trend of public feeling. Some new voters had come of age and many old Republicans changed sides, and it was time. In 1860, the State debt had been some four million dollars, which in 1865 had increased by but half a million. While in 1868 it was a little over four million eight hundred thousand, by November, 1871, it had risen to over five million three hundred thousand dollars, besides contingent liabilities for unbuilt railroads of six and a half million, and prospective contingent

liabilities of almost eight million in addition. The new constitution was but a premonition of what was coming, for A. H. Garland, the nominee of the Democrats, was elected governor and began a new era for Arkansas.

The change did not pass unchallenged, for, by a curious revolution in party politics, Baxter had now aligned himself with the Democrats, Brooks had turned Radical, and the president called on Congress to reverse the policy which he had himself advocated two years before. An investigation of affairs in Arkansas as well as other States was conducted by a committee under Judge Poland, of Vermont, and their report is a document of great value. As a result the State government was left undisturbed.

If one should take stock of the results of reconstruction in Arkansas it would be much the same as elsewhere. The public debt increased, Radical rule degenerating into faction, railroad enterprises endorsed but not finished, education promised and not given, the races alienated, with the negroes seduced from industry to politics and the whites uniting into a new party regardless of past affiliations. The State in which Lincoln tried in war time a policy of non-partisan restoration had become under the mal-administration of his successors uncompromisingly Democratic. What had been won back by him to the Union was by them lost to the Republican party and memories left behind which might outlast the generation.

Descending the river toward the Creole capital we find that the legislature which was elected at the same time with the approval of the Louisiana constitution consisted of negroes and recent immigrants. Thus the governor was a new-comer, for Henry C. Warmoth had arrived with the Federal army, where he had been in no good odor. He had had the sagacity to foresee that negro suffrage would come in time, and even as early as 1866 had set to work to ingratiate himself and organize the blacks. He held some kind of election among them and was returned as a delegate from the Territory of Louisiana, collecting at the

same time from boxes convenient to the polls fifty cents per voter to pay the expense of securing at Washington the rights of the black man and incidentally of himself. This free ballot, however, was unproductive except in starting Warmoth on his political career, in which he was to say that corruption had become a fashion and that he was not more honest than any one else in politics. He came to the State without a dollar. Within a year after his election as governor he was worth a quarter of a million, and when he retired, after eight years of arduous public labor, he was thought to have one of the largest fortunes in Louisiana.

The southern Radicals, like the Carthaginians, have had their history written by their enemies; but in Louisiana, if not elsewhere, it would seem that as to most of them there was no other story to be told. Their leaders endeavored from the beginning to fix registration and other election machinery so that they would be secure in office for years to come, and then went to work to rob the State in every possible way. Pursuing the first object, the Louisiana legislature cast out Democrats by means of a test oath, and so few were left as to be no obstruction to Radical tactics. The general policy as to elections was to put all the machinery in the hands of the governor, and the laws were perfected from time to time with this end in view. Thus, a board of registration was created, consisting of three appointees of the governor, and in the board in turn was vested the appointment of supervisors for the several parishes. Warmoth protected himself even against his subordinates by exacting from many if not all of his appointees a signed resignation, in which he could fill out the date at any time he deemed it necessary to remove the official. To prevent any revision by the courts, a law made final the decision of the supervisors, and even a judge attempting to interfere was subject to fine and impeachment. Somewhat later the improvement was added of a returning board, who canvassed the election returns sent up by the supervisors and had the power to throw out any which they

deemed improper. It was not a subject of surprise, therefore, that in 1870 the governor carried the State and even New Orleans, which was ordinarily overwhelmingly Democratic.

As the Gallic temperament was excitable and revolutions had not been unknown in the past, it was thought proper, as in other southern States, to provide a police or militia system by which to enforce the election laws. In 1869, an act of the legislature created the Metropolitan Police, originally intended for New Orleans but then extended over the entire State. They were armed with rifles and cannon, some were mounted as cavalry, and this army, for such it was, cost Louisiana upward of eight hundred thousand dollars a year. In 1870, there came a constabulary law, which gave the power to appoint a chief constable in every parish, and he could in turn appoint as many deputies as he deemed fit. All were subject to the orders of the governor and could be sent from one parish to another. Their pay was large and was inflicted upon the parishes. Not only were the ordinary courts prohibited from interfering with the supervisors, but two tribunals were created, one civil and the other criminal, with jurisdiction over such public affairs as contests for office. The constitution provided for the election of judges, but, as these were extra-constitutional courts, the appointment of the justices was vested in the governor.

By such means Warmoth was in 1870 a dictator and removed the few officers who proved untractable. It may be doubted whether a Central or South American Republic could show a more complete control of the government by one man. He could prove a blessing or a scourge, and it is instructive to see the use made of his absolute power.

Besides political matters, the reconstructionists sought to touch all the needs of the State, and of these education, railroads and levees occupied probably the first places.

The bureau schools in Louisiana as elsewhere were only for the negroes, and the attempt was made to establish a

general system. As in other States, however, the machinery was complicated and the administration defective. The fund amounted to but a little over a dollar a year for each educable child, hardly a tenth of that in northern States, but in fact, as half did not attend school, more was available for those who did, and schools in New Orleans were on a higher plane. By 1871 there were six hundred and forty schools in the State, with over twice that number of teachers. The swamp and overflowed lands in Louisiana as elsewhere had been long since disposed of, but the legislature of 1869 accepted the congressional donation of land-scrip for the foundation of an agricultural and mechanical college, and here as everywhere in the South the act of July 2, 1862, played a great part in public education. The proceeds of two hundred thousand acres, sold at eighty-seven cents, was invested in Louisiana six per cent bonds, and thus tied up with the fortunes of the State debt.

The Mississippi River made Louisiana, somewhat as the Nile made Egypt, but unlike Egypt the overflows were not desired, for they were irregular and so widespread as to do much damage. The practice had therefore grown up even in colonial days of building dykes or levees to confine the Mississippi, Red and other large streams within their banks, so that the planter could raise his sugar-cane, rice and other products. Before the Civil War the work had been largely left to the riparian owners, but now the change of the labor system and general depression made this plan unavailable. The legislature of 1870 prepared a scheme, but it was vetoed, and other laws soon vested the control of the levees in the Louisiana Levee Company, a private corporation of public men, aided by the State. This was not accomplished without opposition, for some engineers favored outlet and cut off plans which should take the surplus waters to the Gulf and thus prevent confining so large a flood within a single channel. Their argument was, that, apart from the increased danger of crevasses, deposits in the channel would gradually raise the bed, necessitating ever

growing levees until the Mississippi like the Po in Lombardy would be carried in an artificial channel above the level of the country. Governor Warmoth favored the levee system and it became a part of the government.

The newer method of communication by rail was practically unused in Louisiana before the war, and the State was therefore an inviting field for promoters. Many rail-ways were projected, converging as a rule at New Orleans, and State aid was secured at twelve thousand five hundred dollars a mile. Many of them remained mere projects, and even the most promising, a coast line designed to bring the cotton of Texas, Mississippi and Alabama to New Orleans, was long in abeyance, principally from the opposition of Charles Morgan, whose steamboat and other interests were opposed. Warmoth heartily favored this plan of railroad connection with the West and East. Upon the winning over of Morgan, it became at last a reality and modern transportation facilities began to make New Orleans the emporium which her French founders had dreamed should exist as the outlet for the Mississippi Valley. But at what cost?

In an early message to the legislature of 1868 the governor had stated the debt to be about six million dollars, "smaller than almost any State in the Union", with a tax roll of two hundred and fifty-one million dollars, while in 1871 not only by his own showing was the State debt four times as great but the debt of the parishes had doubled and was even larger than that of the State. Already in 1870 the census showed Louisiana as in indebtedness heading the list of States. Her debt was over twenty per cent of her assessment, being seventy-three dollars and three cents per capita against forty-seven dollars and forty-nine cents for Massachusetts the next in line. Warmoth estimated the State debt as over forty-one million dollars, which was seven million too low, and the local obligations ran the total public debt up to seventy-six millions. Meanwhile the governor roundly scored the legislature for wasting in a

sixty day session nine hundred thousand dollars by extravagance in clerks, committees, printing, and travelling.

Bribery of public officials was hardly thought worth denial, however, and others than the governor were becoming rich. In 1870, seven million dollars of bonds had gone to the Levee Company in which many political leaders were interested, and in 1872 two and a half million dollars of bonds helped to make the Mobile, New Orleans and Texas Railroad a fixed fact. These were but the larger items in the financial story of the day. Levee franchises in New Orleans, swamp lands, school funds, contracts, bonds and stocks in railroads, and indeed almost everything which could be granted went where they would do most good. As a matter of necessity taxation increased. From three and three-fourth mills in 1867 it became five and one-fourth two years later and then by annual increase seven and one-half, fourteen and one-half until it was stationary at twenty-one and one-half. New Orleans saw it rise to three per cent in 1873 and in Natchitoches it reached high-water mark at almost eight per cent.

In 1871, Warmoth seemed at the height of his power. To his mind reconstruction was a success. It was generally acquiesced in by the whites, he said, and on the other hand all discrimination growing out of disloyalty had been removed from the statute book. Although an autocrat, he declared that such was the good feeling existing there was no longer necessity for the use of force, State or Federal. Where there had been race riots, a white man could now be convicted for injuring a negro. Therefore the governor advocated changes in registration, salaries, fees, Metropolitan Police and otherwise in the direction of greater liberty.

In this, however, he was perhaps tending somewhat toward Democratic affiliation, because he began to feel that the Radicals were showing signs of internal faction. A portentous thing was the cleavage between him and the Federal officials, who came to be known as the Custom

House Ring, and sought to invade his peculiar domain, State politics, and by methods which cannot be more graphically stated than by himself. "In this State Federal interference in State matters has gone far beyond what it did in those States to which congressional attention has been directed. It has embraced not only bribery, the use of patronage, and the active undisguised interference of Federal employes as such in political meetings, but in addition to these reprehensible acts, the Federal appointees in this State, or many of them, have resorted to menaces, threats, the prostitution of United States buildings to factious party purposes to the exclusion of the business public, and beyond this, even, what is unprecedented in the history of this country, the employment and presence of large numbers of armed Deputy United States Marshals, and of armed United States troops, to interfere with, menace and control a political assemblage of citizens of the State. . . . In a time of profound peace, without any competent authority, or the least necessity, and without consultation with, or the consent of the State authorities, the United States officials here, in violation of law, convoked a political convention in the Custom House in New Orleans, and this against the wishes and in the face of the solemn protest of a large majority of the convention. The doors of the Custom House were locked and barred for a day, and the whole business public who had interests there were excluded.

"United States deputy marshals, selected in many instances from rough and lawless characters, were specially deputised for the occasion, armed with loaded revolvers, and stationed within the building and around the United States court room designated for the convention. The United States Marshal previously declared that they should be stationed within the convention itself. Their instructions had been such that these deputies were insolent and violent in language and manner toward the delegates, even to such an extent as to excite serious disturbance, and going

so far on the part of some of them as the offering of personal violence to the delegates.

"United States troops were drawn up in the Custom House. Their very presence was an alarming attack upon the right of public assemblage, and upon every tradition and principle of American liberty. They interrupted the deliberations of the delegates."

This marshal was S. B. Packard, the registration official of Hancock's time and now leader of the Custom House faction. The trouble in the convention but presaged the factional war which ensued, and perhaps out of it the State might get some good.

Warmoth succeeded in having the mulatto Pinchback made president of the senate, but after a while even Pinchback turned on him. There was not a great deal to choose between the factions. They organized separate legislatures, armed troops, and were in battle array on the streets, when General Emory interfered under instructions from Washington to suppress armed conflict. To such end had come the reconstruction policy.

Warmoth remained in power but realized his need of allies. A fusion convention in 1872 nominated John McEnery and Davidson Penn for governor and lieutenant governor, while the Custom House faction nominated W. P. Kellogg for governor and the negro C. C. Antoine for lieutenant governor, besides other negro nominees. At the election in November the McEnery ticket received the majority of votes, but as usual the real decision lay with the returning board. On account of removals and filling of vacancies there were soon two boards and in the dispute which followed United States circuit judge Durell enjoined McEnery from claiming office. Warmoth then suddenly approved a law which he had kept secret and appointed a new returning board, which declared the McEnery ticket elected.

Durell then made his famous midnight order "without parallel in judicial proceedings." Alleging that Warmoth

had committed contempt, he directed Marshal Packard to seize the State house with United States troops, which he did. The Kellogg legislature thus encouraged organized in the Mechanics' Institute, while the McEnery assembly met in the City Hall. The situation threatened civil war, and a delegation of prominent citizens was preparing to go to Washington to lay the matter before the president when Attorney General Williams wired that the visit would be without avail. Not only did General Emory, acting under instructions, sustain Kellogg, but he arrested and imprisoned the McEnery legislature. Little wonder riots ensued at New Orleans and over the State!

The old returning board declared Kellogg elected, and the Radical legislature under protection of the Federal troops impeached Warmoth and seated the new governor. Such was the beginning of the administration of William Pitt Kellogg.

Kellogg was unable or unwilling to enforce order throughout the State and disturbances became common. Thus, in Grant parish he commissioned both claimants of the sheriff's office so that they could "fight it out", which they did in good earnest, and scores of men were killed and the court house burned. Kellogg needed and used the Metropolitan Police and a steam navy to enforce his authority and collect taxes, and the legislature came to his aid with a law refusing the privilege of the courts to all failing to pay taxes; but apart from the military he was not recognized. As the debt was so great as to prevent further bond issue, the device of repudiation was adopted so as to enable the State to begin over, and even in the process of refunding millions were lost in frauds. Few records were kept, but enough became known to sink the credit of the State to a depth unknown for almost half a century before. Even in New Orleans there were frequent collisions between the people and the Metropolitans and there was increasing need of Federal troops. Indeed, they as the *ultima ratio* were the real foundation of Kellogg's troubled rule.

Heretofore the negro majority, with the assistance of the returning board, had been sufficient to rule the State; but with the split in Radical ranks the whites had at last taken courage. The Ku Klux movement in general will be considered in a separate chapter, but we may note that in Louisiana, like the Proteus of her carnival, it assumed shapes varying with the occasion. In active politics the White Camelia became the White League, an organization which began in April, 1874, at Opelousas,—the mother of the first black code and seat of the St. Landry race riots. The league reached New Orleans shortly afterward, and soon spread over the State, declaring its object to be a fair election and government by the whites. As a means, men organized as McEnery's militia, drilled in New Orleans warehouses and other places, and became a ground of uneasiness to Kellogg.

The crisis was reached September 14, 1874, when Kellogg attempted to prevent the landing of arms for the league from the steamer *Mississippi*. The atmosphere seemed charged with revolution, and negroes instinctively withdrew from the streets. Lieutenant Governor Penn by proclamation called out his militia and put General F. N. Ogden in command. On the other hand the Metropolitan Police, five hundred in number, under General Longstreet and General Badger, and reënforced by artillery, were placed on Canal Street. The result was a pitched battle. Finally the White League charged with the old rebel yell, drove the police through Canal Street, and on past the Custom House,—where the United States soldiers cheered the white forces; for on land, as on sea, blood proved thicker than water. The arsenal, State House, Supreme Court, and camps of the police surrendered, and six thousand white men garrisoned the redeemed city.

Not only so, but the Kellogg government fell throughout the State and McEnery officials were installed without a blow. The revolution of 1874 against negro rule was as complete as that of 1764 against the Spaniards.

The parallel, however, was perfect in the results also, for soldiers came in 1874 as in 1764 and undid the work of the revolution. Kellogg from his place of safety in the Custom House appealed to President Grant, and then Federal troops took possession of the State House and placed Kellogg back in office.

An election soon followed and the revolution was endorsed by the people, for the Democrats swept the State. The returning board did its work as heretofore, but the Democrats secured control of the legislature. With kaleidoscopic quickness, however, the scene again changes. At Kellogg's request the Federal military cleared the hall and State House of persons pointed out by the clerk, and Radical organization was effected.

General Sheridan was put in command and made his recommendation that the leaders of the White League be declared banditti and tried by military commission. Military rule had been used to inaugurate reconstruction; military rule was necessary to sustain the negro government which it created. The wheel had come full circle. First had come Sheridan and Hancock, then Warmoth and Kellogg, and now Sheridan again. Order at last reigned in New Orleans.

CHAPTER XIV

THE LAGGARD STATES—VIRGINIA, MISSISSIPPI, AND TEXAS

MOST of the Southern States had been restored to the Union under constitutions adopted by them and since 1868 were in the enjoyment, if that be the proper word, of the privileges of civil government. These constitutions had been accompanied by the adoption of the Fourteenth Amendment, which disfranchised the leading white men on account of participation in the rebellion, and enfranchised negroes, who were led mainly by alien immigrants. The practical results of this kind of government we have studied so far as relates to all but three of the States. Virginia, Mississippi and Texas, however, had rejected or failed to adopt the constitutions proposed to them. The reasons for this were various. Some voters were filled with resentment and hatred. Others preferred to remain under military rule, as the choice of evils. Others hoped that the future would bring some change in the disposition at the North. All of these feelings were human and can be appreciated.

But there was something which the people of these States overlooked,—that Congress might become more radical and inflict yet other conditions upon them. Past experience seemed to indicate this as probable. Johnson's restoration was more proscriptive than that Lincoln seemed to have planned. The resolutions first proposed by the Reconstruction Committee were less stringent than those contained in

the acts of 1867. Each subsequent statute had gone further than its predecessor. The Thirteenth and Fourteenth Amendments had been adopted by votes of Southern States, exacted as prerequisites to congressional recognition. Could the same plan be followed now with the three laggard States as to the proposed Fifteenth Amendment, which sought to place negro suffrage beyond repeal?

On the face of it restoration had been more feasible in Virginia than any other State because it involved only recognition of the Pierpoint government, which had existed behind the Union lines throughout the war. There was a disadvantage, however, that in this way Pierpoint, although acting under a constitution made somewhat liberal by amendment, from the beginning represented a conquering power, and to the people of Virginia, ruined by devastation beyond all others, and cherishing perhaps beyond the rest her bitter memories, his was throughout an alien authority. It was backed up by a military commander and the distinction between civil and military governments was oftentimes indistinct. We recall how Chief Justice Chase declined to hold court in the Jefferson Davis case on the ground that the military was still in charge, and General Terry nullified the Vagrant Act of the restored government. Pierpoint's term expired in 1868 and H. H. Wells was by the military appointed his successor. The State even by that time showed little signs of recuperation. In the tidewater counties the negro question was still unsolved, for the nearness of the country to Washington kept Virginia more than any other under political surveillance. Back toward the mountains and the Shenandoah Valley there were fewer negroes, but the whites were if anything more restless. Of the restored governments, therefore, that of Virginia was among the least representative of the people.

Then had come the Reconstruction Act, the registration under military direction, and on December 30, 1867, the Reconstruction convention. It was not the fault of

General Schofield that the new constitution proposed contained clauses disqualifying so many citizens. He advised against the provisions which were adopted and on the floor said "I have no hesitation in saying that I believe it impossible to inaugurate a government upon that basis." Illustrating the same point is the report made by General Stoneman over a year later that there were five thousand four hundred and forty-six offices in the State, of which he and Schofield had filled two thousand five hundred and four, and that of these only three hundred and twenty-nine could take the test oath. He struck the keynote as to the impossibility of government by minority when he said: "The conclusion will force itself upon every intelligent mind, that if, with all the efforts that have been made and the latitude that had been allowed, the offices in the State have not been filled by competent persons, they certainly cannot be filled when the restrictions of any one party are to be observed and complied with, as will be the case upon the adoption of the proposed constitution, under which it is desired by some that the people of Virginia shall be forced to live, and to the requirements of which they are expected to consent."

The instrument formulated was not submitted to the people and consequently Virginia as District Number One remained under military rule. The first commander was General Schofield, a good soldier and a man of executive ability. He was succeeded later by General Stoneman, also a soldier and a gentleman, who executed faithfully and with fairness the despotic powers conferred by the reconstruction law. In 1868, however, Canby succeeded, and as in the Southwest his administration was marked by harshness.

Military supervision of what was called the provisional government followed much the same lines as in other States. Thus, the men appointed to judicial positions were frequently very ignorant. One Federal district judge was as corrupt as he was ignorant, and yet he was recommended

by a Republican State convention as a faithful, patriotic and distinguished jurist, proper to succeed Pierpoint as governor. Schofield by General Orders No. 31 erected a judicial system, to be administered by military commissioners to be selected from army and Freedmen's Bureau officers, and governed "by the laws of Virginia so far as same were not in conflict with the laws of the United States, or orders issued from these headquarters." Their jurisdiction was paramount and was exclusive in all cases where there were satisfactory reasons to believe that justice would not be done. One of the local magistrates in the Shenandoah Valley, an old man of character and influence, is said to have refused when commanded to set aside the conviction of a negro, and replied that if the general insisted upon the release he would have to bring United States soldiers, and even in that case the magistrate would himself order out the posse of the county and make the best resistance he could. The result was that the matter was satisfactorily arranged.

The constitution had not been submitted to the people and consequently had neither been adopted nor rejected. Augusta County, as often before in the history of the State, came to the rescue. A. H. H. Stuart was influential in calling a conference of prominent men, which met at Richmond and appointed a Committee of Nine, with Mr. Stuart at the head, who went to Washington in January, 1869, to adjust matters. Their efforts were seconded by a Conservative Republican delegation. They went before Congressional committees and largely to their efforts, as well as to those of Mississippi delegations, was due the recommendation by General Grant after his inauguration to allow a separate vote upon the disqualifying clauses of the constitutions not yet adopted.

The matter was presented to Congress in different ways and resulted in a bill to admit the three States after their adoption of the constitutions already proposed, but with the right to accept or reject the franchise clauses separately.

It was further provided that "at the same election voters of said State may vote for and elect members of the general assembly of said State, and all the officers of said State provided for by the said constitution, and members of Congress; and the officer commanding the district shall cause the lists of registered voters of said State to be revised, enlarged, and corrected prior to such election, according to law, and for that purpose may appoint such registrars as he may deem necessary. And said elections shall be held and returns thereof made in the manner provided by the Acts of Congress commonly called the reconstruction acts." Whenever a constitution was ratified, the legislature elected at the same time should assemble at the capitol on the fourth Tuesday after the official promulgation thereof by the military officer commanding. So far all was substantially the plan of President Grant, but Morton, of Indiana, secured the addition of the further section that "Before the States of Virginia, Mississippi and Texas shall be admitted to representation in Congress, their several legislatures which may be hereafter lawfully organized, shall ratify the fifteenth article, which has been proposed by Congress to the several States as an amendment to the Constitution of the United States." Even then the proceedings were not to be considered final or operate as a complete restoration until the action of the respective States should be approved by Congress. As so perfected the bill was signed by the president and became a law April 10, 1869.

The other Southern States which had been readmitted had escaped the Fifteenth Amendment. It was the penalty inflicted upon these three laggards for contumacy, but the move was largely due to the necessity of more votes for the Amendment, whose fate was in the balance.

The State ticket nominated in May of the previous year was taken down and the Democrats supported the one put up by the moderate Republicans. The election was held in July and the constitution was adopted, with the exception of the disqualifying clauses. Gilbert C. Walker was

elected governor, together with the rest of the ticket, inaugurated in September, and on October 8th the new legislature ratified the Fourteenth and Fifteenth Amendments. The former was particularly galling to Virginia because it kept out of office all of her leaders; but it was a condition precedent to obtaining control of local government and was accepted as a bitter necessity. When Congress re-assembled an act was passed January 26, 1870, recognizing that Virginia was restored to her Federal relations, and the next day General Canby announced that District No. 1 had ceased to exist.

The State of Mississippi has never developed a large city and its story therefore is that of an agricultural community. It extends as far north and south as does its neighbor Alabama, and yet presents a greater uniformity. The southern part is given over to piney woods and sandy soil, but without a large river to make this tributary to commerce, and cotton is king from the Louisiana line to the Tennessee boundary. There are no differing agricultural belts across the State; the variations, so far as there are any, are districts running north and south. Thus the Mississippi banks and the Yazoo Valley above Vicksburg are extremely fertile, and the same is true of the Tombigbee River and the Mobile and Ohio region to the east, and a third line of development extends along the railroad running north and south from Jackson, the capital.

Being originally a frontier district toward the French and Spaniards of the Southwest, Mississippi had originally been a military community and the presence of Indians until the thirties and of a large slave population then and ever afterward kept it on a semi-war footing. The State has in politics always been positive, and reminds one of South Carolina on a larger scale, despite striking differences due to the rural nature of the one and the civic dependence of the other.

On account of the rejection of the proposed constitution, the State continued under military rule, administered by

General Gillem, the successor of Ord. After the removal of Humphreys, General Adelbert Ames acted as provisional governor, and when Gillem was himself transferred upon the accession of President Grant, Ames from March 17, 1869, was military governor. In consequence of the joint resolution passed on February 16th requiring officers to take the ironclad oath of 1862, almost all offices became vacant and scarcely a day passed without some special order naming officials. Thus, from time to time Ames appointed sixty sheriffs, seventy-two circuit and probate judges, seventy county treasurers, one hundred and twenty circuit and probate clerks, sixty county assessors, fifty mayors, two hundred and twenty aldermen, three hundred and eighty-five justices, one hundred and sixty-five constables, and minor officers without number. The result of all this was to put the government of Mississippi into the hands of aliens and negroes, which was the object of the law. On April 29th a military order placed freedmen on the juries, and gradually the whole civilization of the State was opened to the negroes.

Under the act of April 10, 1869, which provided for re-submitting the constitution to the voters, the president appointed November 30th as the day of election, and meantime the nomination for officers was taken up. The Republican party was organized and put a full ticket in the field, embracing amongst others J. L. Alcorn, a native of Illinois, but a Mississippi secessionist, as nominee for governor, R. C. Powers, formerly a Union soldier, for lieutenant governor, and James Lynch, an eloquent negro preacher from Indiana, for secretary of state. On the other hand the Democrats or Conservatives selected as their nominee for governor Louis Dent, a brother-in-law of President Grant, a man who was to some extent identified with Mississippi. Two of his uncles had lived in Mississippi while it was a territory, and it was supposed that his election now would reconcile the national and State administrations. President Grant, however, in August,

1869, wrote Dent that he disapproved of his nomination and should favor the Radical candidate. The State had gone Democratic in the enthusiastic campaign against the original constitution in 1868, but now the Alcorn ticket prevailed, legislature and all, by an overwhelming majority. Twenty-eight of the sixty counties were controlled by negroes and they voted almost solidly with the radicals. Although the constitution was adopted quite unanimously, the disqualifying clauses were defeated. Ames offered to appoint Alcorn provisional governor to hold in the interval until the regular term, but Alcorn declined.

On the 11th of January, 1870, the legislature met, Republican overwhelmingly, and the Fourteenth and Fifteenth Amendments were submitted by Ames and ratified almost unanimously. Except Texas, Mississippi was the last Southern State to ratify. In the election for United States senators, the successful candidates were General Ames and Hiram Revels. Revels was a negro who had lived long in Indiana and had come South with the Freedmen's Bureau, a man of ability and withal some conservatism.

Mississippi had at last been reconstructed and on February 17, 1870, a law was passed to readmit her to representation in Congress. It went on the general plan heretofore adopted of imposing new conditions every time an opportunity occurred, and declared that, as the State had adopted a republican constitution and ratified the two amendments, Mississippi was entitled to representation in Congress, provided that all members of the legislature should, under penalty of perjury, take what amounted to the ironclad oath, unless they had been relieved from disabilities, and provided further, "First, That the constitution of Mississippi shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are entitled to vote by the constitution herein recognized, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted under laws equally

applicable to all the inhabitants of said State: Provided, That any alteration of said constitution, prospective in its effects, may be made in regard to the time and place of residence of voters. Second, That it shall never be lawful for the said State to deprive any citizen of the United States, on account of his race, color or previous condition of servitude, of the right to hold office under the constitution and laws of said State, or upon any such ground to require of him any other qualifications for office than such as are required of all other citizens. Third, That the constitution of Mississippi shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the school rights and privileges secured by the constitution of said State."

When Ames and Revels went to Washington it was objected that a military officer could not sign a certificate of election to the United States Senate, and more particularly in Ames's case that such an officer could not certify his own credentials. Finally, however, these were accepted and the senators seated. If certification by the military was typical of reconstruction, on the other hand the Radicals thought it poetic justice that a negro should succeed Jefferson Davis as senator. A member from Kansas, however, prevented poetic justice from going its full length, for he declined to give up to this first negro senator the chair of Jefferson Davis, which he was himself using.

On February 25, 1870, General Orders No. 25 recognized the rehabilitation of the State and declared that the Fourth Military District had ceased to exist. Hence on, therefore, our attention is to be devoted to the civil administration of the State under her belated reconstructed government.

Governor Alcorn, inaugurated March 10, 1870, was a planter of influence, who accepted reconstruction as a fixed fact and determined to do the best he could for his State under the new order of things. To his mind the old issues were dead and buried and it was necessary to build up a

Republican party in order to secure the best interests of the public. His lieutenant governor, R. C. Powers, was a northern man, who coming South for legitimate purposes, had so conducted himself as to win the respect of the native whites. The mechanism of State government was now somewhat more complicated than before the war in that the offices of lieutenant governor, commissioner of immigration, State printer and the like were new and the number of circuit judges was increased threefold. The old probate courts gave way to twenty chancery courts, appointed by the governor.

The legislation was what might be expected from the law-makers. The speaker was Dr. Franklin, originally of New York, and now of Yazoo. There were about forty negroes, and of these a dozen or more ministers were men of some ability. Warren County, in which Vicksburg was the county seat, Hinds containing the capital, Adams containing the historic town of Natchez, and many other of the largest and richest agricultural counties were represented by ex-slaves. The old university was reconstructed, provision made to codify the laws, and all other early laws as to negroes were repealed. Race distinctions were forbidden in drawing juries, transportation companies of all kinds prohibited from discriminating in any manner between passengers, and in general the whole body of laws was overhauled. This session of legislature was the longest in the history of the State, extending from January 11th to July 21st, less certain adjournments, and thus the expense of the legislative department was about three times that of the legislature of 1865.

The term for which Governor Alcorn was chosen lasted until after the election of 1873, but meantime he became a senator in place of Revels and the lieutenant governor administered public affairs. The reconstruction theories were now in full practice. Negro schools were established everywhere, supported by public taxation, which meant that the whites were taxed to pay for them, and on the other hand

the result was that white men, who paid most of the taxes, had less proportionately to give their own children. The administration of the schools was at first under Pease, an alien immigrant of some ability, and the educational system was fairly well worked out. The principal complaints were that expensive school houses were built instead of the simple log cabins which up to that time had been thought sufficient, and that teachers were paid higher in proportion than other State officers, and in fact higher than teachers in the northern States. Dissatisfaction over these facts led to a number of Ku Klux outrages, by means of which obnoxious schools were closed and teachers driven away. No attempt was made by negroes to enter the university, and ultimately a university was established for them at Rodney, with Revels as its first president.

Although the theory of reconstruction was that all men are born free and equal and are to act as such, practically the former masters and former slaves never did affiliate. It is doubtful which race was the first to draw back from enforced fraternity, for the whites would have none of it and the better class of negroes did not desire it. At first the negroes followed the carpet-baggers and yielded to their northern friends all paying positions, but gradually the freedmen learned to distrust aliens who absorbed the offices. The negroes began to draw the color line and demanded that where they did the voting they should have the offices. At the beginning we find Revels in the Senate, and in 1872 J. R. Lynch presided over the lower house with dignity and impartiality. The speakership came to be considered as a negro perquisite, but Lynch's successors were not men of the same calibre.

Ultimately many of the sheriffs, whose office gave them great power, were negroes, although they farmed out the duties to white deputies. Thus De Soto County for four years had a negro sheriff who could neither read nor write. Isaquena had one who served four terms with a compensation of three thousand dollars a year. Negroes occupied other

places also and one of the curses of Reconstruction was the inoculation of the race with the desire for public office and the belief that the open door of office was the chief jewel in the crown of freedom.

The administration of Governor Alcorn was in a high sense representative of reconstruction ideals, for he was a man of great ability and bent upon giving a fair trial to the new system, which he deemed a necessity for the South. So far as he could he kept southern white men in office and at the same time gave full representation to the negroes, who made up the bulk of the new Republican party. Even he, however, much preferred to be senator at Washington, where he and his colleague Ames did not at all agree. Alcorn, to use a term of the day, was a scalawag, while Ames was a carpet-bagger, and the enmity which existed between these two classes found nowhere more bitter expression than between these two senators. Alcorn in a speech on the Ku Klux act said that Ames had taken advantage of his position as Federal general "to seize a senatorial toga before taking off his military coat", that he was not even a citizen of Mississippi, to whose taxes he had never contributed a dollar. Ames replied that his colleague had only left a free country (Illinois) somewhat earlier and thus became one of the natives, one of the high-toned, chivalric gentlemen of Mississippi. On another occasion Ames said that Alcorn had not protected the negroes, but allowed them to be killed by tens and hundreds, "gaining power and favor of the Democracy at the price of the blood . . . of his friends." Ames afterwards admitted that his taking a political office seemed most inexplicable, but it seemed to him at the time that he had the mission of guiding the freedmen and pacifying the country. "In order that the whites should know that colored men were not slaves, and in recognition of their loyalty, I gave them office and put them in the jury box, and relieved them from unjust and oppressive legislation of their masters, for which a successful and grateful party sent me to the senate."

In 1873, both Ames and Alcorn returned to Mississippi and ran for governor in order to secure endorsement from the people, but Ames secured the adherence of the negroes and was triumphantly elected, together with two negroes, Davis as lieutenant governor, and Cordoza as school commissioner. Cordoza was under indictment at the time of his election and his administration of school affairs gave just cause of complaint. The legislature was Republican, there being in the house fifty-five negroes and sixty white members, and the senate containing nine negroes. Adams, Hinds, Noxubee, Warren, Lowndes and many other counties had negroes as representatives or senators, and the speaker, as usual, was a negro. Whenever Ames went out of the State the lieutenant governor would undertake to perform the duties of governor, but on one occasion the door of the office was shut by the private secretary in the face of the officious Davis. Whenever he had any chance, Davis would remove officials, regardless of what Ames desired, and he exercised the pardoning power freely in favor of his friends who had the misfortune to be in the penitentiary.

The administrations of Alcorn and Ames were famous in the history of Mississippi. They did not show the bare-faced fraud and robbery which marked reconstruction in South Carolina and Louisiana. There were no great State scandals, for the constitution fortunately prevented the rendering of State aid to railroads, which was common in other States. Possibly the nearest approach to a public swindle was the Pearl River Scheme, organized by several members of the legislature in order to handle lands granted by the United States for the improvement of rivers. The company, obligating itself to make Pearl River navigable, received one hundred and five thousand acres of land; but, as there was no security exacted, nothing in point of fact was accomplished, and the company secured the lands without any compensation. The State printing was little else than robbery, as was usual under the reconstructionists of

the South. Before the war it had not exceeded eight thousand dollars a year, while from 1870 on it was upward of seventy thousand dollars annually, amounting in one year to one hundred and twenty-eight thousand. The per diem of the members of the legislature was the same as fixed by the first white legislature after the war, but the length of sessions made this amount to a real scandal. Thus, in 1870, the session lasted six months, in 1871 five months, about as long in 1872, and next year the regular session was four months and there was an extra session in addition. In 1874, upwards of three months were consumed in the regular session and an extra session was held in the fall, and the same was true in 1875. The petition of a Tax Payers' Convention for biennial sessions was defeated in the legislature largely through the influence of the governor.

The State debt was not much increased during these years. Prior to reconstruction it had been half a million, and at the end of Ames's term it was a little over a million dollars. Administration expenses, however, were large. Prior to Reconstruction these had amounted to about a half a million a year, except that immediately after the war they were greater, but from the time the Republicans took charge expenses rapidly increased. Thus, in 1870 they amounted to one million dollars and the next year to over a million and a half, and, although reduced a little in succeeding years, never fell below thirteen hundred thousand. Of course, to meet this increase the taxes were larger. In 1869, the tax rate had been one mill, but next year it was five, then four; in 1872 it was eight and a half mills, in 1873 twelve and a half, and in 1874 it reached its highest point with fourteen mills. To this must be added local expenses, which were in some cases very large. Vicksburg owed a greater debt than the State, and it was this which led to the outbreak of 1874.

Warren County and Vicksburg had in that year corrupt and incompetent officials, mainly ignorant negroes, and nevertheless the blacks declared openly that only negroes

should hold offices, although the whites paid ninety-nine per cent of the taxes. The city and county debt in 1869 had been thirteen thousand dollars and by 1874 the city debt amounted to almost a million and a half. There was every indication that the next election would be warmly contested. Lieutenant Governor Davis applied for troops, but President Grant declined to interfere under the circumstances. The white employers prepared to discharge negroes who would not support decent candidates, and ultimately held a convention and demanded the resignation of the sheriff and other officers. Not content with this, the convention, numbering five hundred, marched to the court house and secured the resignation of Sheriff Crosby; whereupon Ames issued a proclamation calling out the negro militia, alleging that the white troops were not loyal. The whites organized in turn. There was now no difference between Republicans and Democrats, ex-Confederates and ex-Federals; all acted together to recover the local government for the tax-payers. Conflicts took place, but at the election the negroes declined to take part, and Flannagan, the white candidate for sheriff, was elected and entered upon the discharge of his duties.

The revolution seemed complete, when General Sheridan on January 5, 1875, telegraphed Ames that he had assumed control of the Department of the Gulf and would send troops to Vicksburg. Accordingly on the 18th a Federal officer with soldiers entered the sheriff's office, ousted Flannagan, and placed the notorious Crosby in control. This action of Sheridan was greatly resented, the more so when the dispatch became public in which he recommended Congress to declare the ringleaders at Vicksburg "banditti." If, he said, it were left to him to do the rest, further action by Congress would be unnecessary. The legislature of Mississippi, however, approved his action and passed a vote of thanks; but the end was not yet.

Texas had suffered during the civil war less than any other State. Indeed, in some respects it had been benefited, for refugees with slaves had sought its hospitable bounds,

and through it and across its Mexican border had been carried on a large part of the foreign commerce of the South. It is thought that there were four hundred thousand negroes in the State just prior to the surrender, and, although many people sought their old homes after that event, the total population must have been about eight hundred thousand even before the census of 1870.

The presidential restoration had been slower in Texas than elsewhere. Andrew J. Hamilton was appointed governor June 16, 1865, and set to work restoring civil government throughout his vast but sparsely settled State. It was not until June 25th of the next year that he had assembled a constitutional convention to accept the changes made necessary by the result of the war. The new constitution was adopted, J. W. Throckmorton elected governor over E. M. Pease, and in August inaugurated. The legislature adopted the Thirteenth Amendment, but affairs remained in a disturbed state on account of the restlessness of the Indians on the border as well as the blacks in the interior. Military government was never removed and in September, 1866, came the burning of the town of Brenham by riotous soldiers, under circumstances never to be forgotten.

At the passing of the Reconstruction law Sheridan commanded the fifth district, and made his hand felt through General Charles Griffin, in whose charge was the subdistrict of Texas. Thus in the middle of March, 1867, after an examination by the inspector of the Freedmen's Bureau, a demand was made upon Throckmorton for the pardon of two hundred and twenty-seven negroes imprisoned in the penitentiary under final sentence for different crimes. Throckmorton, on the other hand, looked into the matter and reported to Sheridan that he had come to the conclusion that the sentences were just, especially as on the trial the defendants had, according to Texas practice, been defended by counsel appointed by the court. He said that the great mass of his people felt a sympathy for the negroes and always made

due allowance for their situation, and as he was satisfied that the convictions were just, he refused to interfere by pardon. The governor on one occasion requested Sheridan to protect the frontiers against the Indians, and the general made the curt retort "that there are more casualties occurring from outrages perpetrated upon the Union men and freedmen in the interior of the State than occurs from Indian depredations on the frontier." This Throckmorton "solemnly and emphatically" denied and alleged that the crimes against the freedmen had been committed principally by United States soldiers, either in the service, discharged or deserted. Such independence of character, evidenced also by other acts, led Sheridan to consider the governor as "an impediment to the reconstruction of Texas under the law," and Throckmorton was removed from office July 30, 1867, and E. M. Pease, the minority candidate at the last election, appointed in his stead. Pease had been an extreme Democrat before the war, but had now become a Radical, anxious not only to be sustained by the military but to have military tribunals practically substituted for civil courts, an end which he secured.

After the Reconstruction Convention, E. J. Davis, late a United States army officer, was returned as governor. The legislature accepted on February 18, 1870, the Fourteenth and Fifteenth Amendments, as well as the Thirteenth once more, but it was noted as the most corrupt in the history of Texas. Governor Davis was himself honest but favored and furthered every species of partisan legislation. Thus, a new militia act became an important feature, instituting the State guard composed only of men satisfactory to the government, leaving the reserve militia, which need not be called out, to be composed of the other inhabitants. This act also gave the governor the right to proclaim martial law at will. In 1870, there were organized, subject to the control of the governor, a State police, who were adjuncts, or rather included, all executive officials, and still another act gave the governor the power

to appoint mayors and the like. As might be expected, the governor during his administration from 1870 to 1874 used all these powers despotically and for partisan purposes.

The practical result of this government by minority was shown in the public debt. When Davis was inaugurated he stated that Texas was substantially out of debt, while in 1873 the comptroller admitted the debt to be almost two millions, and a year later it was almost four millions and a half. The tax rate had risen from fifteen to fifty cents on the hundred dollars, and in education as everything else nothing promised had been accomplished. Such was Texas during reconstruction.

We have now followed the reconstruction of the Southern States from the initial legislation down to its ripest fruitage. We have seen that the means prescribed by the acts of 1867 were such as to exclude from public affairs the bulk of the white men. Instead of the old rulers were substituted on the one side alien immigrants from the North, commonly called Carpet-baggers and the white natives, nicknamed Scalawags, who now professed to be Union in sentiment, and generally for sake of office. Even together these made up at most only a small minority of the white people. On the other hand, the negroes, who had been slaves for centuries and denied all education and business experience, were entrusted with the ballot and became the mainstay of the reconstructed governments. The aim of the policy may be said to have been to put the government into the hands of unrepresentative whites and ignorant negroes.

The policy was thus deliberately pursued of making the past rule the future. Was this either right or necessary? It would seem to have been Lincoln's plan to trust the southern people to reconstruct their own governments, exacting only an oath of future loyalty to the Union. The year after Lincoln's death Governor Andrew, of Massachusetts, outlined the same thing in words which made a deep impression at the time: "I am satisfied that the mass

of thinking men at the South accept the present condition of things in good faith; and I am also satisfied that, with the support of a firm policy from the President and Congress, in aid of the efforts of their good faith, and with the help of a conciliatory and generous disposition on the part of the North,—especially on the part of those States most identified with the plan of emancipation,—the measures needed for permanent and universal welfare can surely be obtained. There ought now to be *a vigorous prosecution of the peace*, just as vigorous as our recent prosecution of the war. We ought to extend our hands with cordial good-will to meet the proffered hands of the South; demanding no attitude of humiliation from any; inflicting no acts of humiliation upon any; respecting the feelings of the conquered, notwithstanding the question of right and wrong between the parties belligerent. We ought, by all the means and instrumentalities of peace, and by all the thrifty methods of industry, by all re-creative agencies of education and religion, to help rebuild the waste places, and restore order, society, prosperity. Without industry and business there can be no progress. In their absence, civilized man even recedes toward barbarism." But the impression of these noble words wore off, and the plan was adopted of excluding those who had shown their earnestness by fighting to the death and giving their all on behalf of principle, and turning the State reorganization over to aliens, renegades and slaves.

The means by which government so rebuilt could be carried on was making the executive dictatorial. This applied in the first instance to the governors, and they in turn called *ad libitum* on the president for troops. The executive power throughout the Southern States during reconstruction received an enlargement like that of the Federal executive during the Civil War, and so far as local affairs were concerned it was a progress from democracy to autocracy. If the accepted theory of reconstruction was right, there was no help for this. It was preferable to have the

sway of the ignorant and self-serving few rather than that of the people, for the latter, although more numerous, were counted disloyal because of past acts.

Our survey of these reconstruction administrations has shown uniform results. There have been different phases, but to the extent that reconstruction principles prevailed there has been uniformly a use of public office for private benefit. The negroes plundered the State in America with the same zeal with which they plundered a wrecked vessel on the coast of Africa, their new found leaders applauding and helping, while the victims stood helpless by.

What, then, is the outlook with which we close our review? All Southern States in 1874 were not in the same condition, but at least all had passed through like stages. We have found each ruled by a few men, although there might be conflicts between the would-be tyrants as to which should be supreme. These at first were uniformly white men, although in some places, as in South Carolina, Louisiana and Mississippi, the negro was rapidly coming to his own, or rather to the white man's own, and securing the chief offices. For the negro himself the result was disastrous. Instead of self-reliance, instead of independent development of all that was in him for his own good and in order to make him indispensable to his community, the negro was taught dependence and inoculated with the notion that he was not only a national ward, like the Indian, but himself was of a favored race, for whom offices must be preserved to the exclusion of the southern whites; and this belief might become so ingrained, that, even if State positions should fail him in the future, it might survive as to offices within the gift of a paternal government at Washington. He came to insist on what he imagined were his rights and to forget his duties.

Some States had been redeemed. Virginia, North Carolina, Georgia and Arkansas could from a hardly won height look back in sympathy. Alabama, Mississippi and Texas might almost hope for the promise of a new future. But

South Carolina, Florida, and Louisiana seemed doomed. Credit was ruined. The prevailing feeling of all those who made the State worth being called a State was depression if not despair. The negroes were in the majority and the future did not promise any change. The employment of force was useless, for, when outbreaks occurred, they were crushed by Federal troops. The result could not be other than a hatred by the whites of both the negro and his new master. If there was to be a future for the South, the determination, springing originally out of race pride and now confirmed by bitter experience, was in every State that in the government there was room only for white men.

CHAPTER XV

THE FREEDMEN'S BUREAU AND ITS ADJUNCTS

THE negro was the cause of the Civil War and the subject of the three amendments to the Constitution which marked the reorganization of the Union. It is true that emancipation had not at first been contemplated, but it became the fixed policy of the Federal government even during the progress of hostilities, and the extension of suffrage to the negroes became not less the policy afterwards, for it was the foundation of Reconstruction. So that during the progress of the war and for years later the negro was in some sense the ward of the nation. The great mass of the American people desired his welfare, and the feeling took practical shape. On the part of the government it was to be effected by the Freedmen's Bureau, reënforced on the unofficial side by the Union League in political and the Freedmen's Bank in financial training of the "blameless Ethiopian."

The earlier history and procedure of the Freedmen's Bureau has been mentioned in other connections, but on account of the important part played by this institution its fuller development should also be studied. As an experiment in governmental control of racial and economic affairs during an important crisis, it probably has no parallel in history.

The bureau ultimately had greater powers than at first, but at the beginning its work was arranged in four divisions,

—lands, records, finance, and medical service, each with appropriate officers. Lieutenant Colonel Balloch was chief distributing officer, and J. W. Alvord had charge of schools and finances, while there were also quartermasters, inspectors, provost marshals, missionaries, and local agents without number. All were subject to the general office at Washington, from which orders proceeded, and for better administration all officers were under military jurisdiction, although some were civilians.

The whole subject was new and much had to be learned by experience. For this reason the instructions first given by Commissioner O. O. Howard were general and provisional, and the assistant commissioners left to work out details applicable to their different jurisdictions. Some of these acted with wisdom and circumspection, and some succeeded to a large degree in enlisting the favor of the State authorities. This was the case with Swayne in Alabama, Tillson in Georgia, Osborn in Florida and Sprague in Arkansas. Most of the complaints were directed against local agents, many of whom were not even known to the assistant commissioners, some were strangers in their districts, and not a few abused their position and influence over the negroes to their own personal ends.

There was much legislation on the subject of the Freedmen's Bureau, all of which contemplated it as a temporary institution, designed to discharge certain duties as to the freedmen until the Southern States were reorganized to the extent of properly discharging these duties. The first act was passed July 2, 1864, and, even before the two years contemplated by it had expired, the Republican leaders, Trumbull in particular, endeavored to secure another law extending the term and widening the scope of the institution. President Johnson vetoed this bill and enough votes could not be mustered to override the veto. In the progress of the quarrel between the president and Congress, however, another act along almost the same lines was passed, continuing the bureau for the relief of the freedmen and

refugees for two years, and, although vetoed by the president, it became a law notwithstanding July 16, 1866. It continued the old provisions and contained others as to granting lands to negroes who had gone into occupation under General Sherman's order of 1865, and the duties of the bureau agents were defined as protecting the rights of all citizens, without respect to race, color or previous condition of slavery, until the States were respectively "restored in their constitutional relations to the government." On the other hand, it was provided that the supplies which were afforded to destitute people were not to be extended to those "able to find employment and could by proper industry or exertion avoid such destitution, suffering or dependence."

The first efforts of the Freedmen's Bureau were directed to the temporary work of helping the destitute and much was done in the way of feeding, clothing, and giving medical assistance. This was greatly needed during the war, and immediately afterward the economic break-up threw even more of it upon the government than before. Much was also accomplished in the way of transporting refugees, both white and black, from their places of hiding at the North back to their old homes in the South, as well as in carrying material and educational supplies. The negro death rate was reduced from perhaps thirty per cent in 1865 to a little over two per cent in 1869, and, although in asylums and hospitals the number of incurables told a different tale for the time being, by 1869 but two hospitals and one asylum remained of the many at first operated by the bureau. It is thought that the expense of food and clothing amounted first and last to four and a half million dollars, and the transportation of supplies of all kinds was almost double this figure.

A more important, because a more permanent feature of the bureau work, related to land and labor. A fundamental principle of the bureau was the one advocated by Sumner, that the department which controlled the freed negroes should also control the property confiscated from

the rebels, with the plan of enforcing a kind of poetic justice in making these lands support the old slaves. The quartering of the freedmen upon the Georgia and Carolina coast, the collection of thousands on the lower Mississippi River, as well as elsewhere in the South, were measures which might have important consequences. It was the beginning of an effort to create of homeless and landless laborers a class of peasants, renting land with the hope of owning it in the future.

A circular of General Howard May 22, 1865, recited that a large amount of lands in Virginia and other States had been abandoned by disloyal owners and was then being cultivated by freedmen. He decided that the freedmen should not be deprived of the fruits of their industry by immediate restoration to the owners and ordered that such land so far as under cultivation be retained by the freedmen until crops were removed or paid for. A rumor in 1865 that the government would divide up the lands at Christmas was the ground alleged by the negroes for not entering into contracts even as late as the winter. In November Howard directed all officers and agents to take every possible means to remove so erroneous and injurious an impression, and to secure written agreements for the coming year. The freedmen were to be instructed that it was for their best interests to look to the property holders for employment. Even earlier Assistant Commissioner Tillson had in Georgia been endeavoring to counteract the same rumor of distribution of property, and directed agents and officers to convince the freed people that they were mistaken and to induce them to enter into contracts in order to prevent suffering.

In point of fact the abandoned land only amounted to 800,000 acres and some 1,500 town lots, unequally distributed. In Virginia, Georgia, North and South Carolina, Kentucky and Tennessee, where the operations of war had been prolonged, there was a great deal; in Alabama and Florida there was little, and in Texas none. Possibly only

two-tenths of one per cent of Southern land was ever in the possession of the bureau, and, even if it had been possible to shift the colored population, each family would have obtained less than an acre,—of course too little to do any good. Shortly there was the further difficulty that the amnesty proclamations and pardons of Lincoln and Johnson were held to work a restoration of civil rights to the rebels and consequently of property not actually sold by the government, and thus little by little the lands melted away in the hands of the bureau. The work of restoration was turned over to the bureau, but even the Sea Islands of Sherman's order soon went back to the old owners, and the land division was forced to close. In 1868, less than 140,000 acres remained in its charge, and much of this was poor and unavailable.

There was colonization of the freed people in large numbers in some places, but it generally proved a failure. Thus in Florida a report of Assistant Commissioner Sprague speaks of General Ely's colony at New Smyrna as the only one of magnitude and that through want of discipline and general mismanagement it barely held together, although no effort had been spared by the bureau to give it a thorough trial under a competent officer. But the predatory disposition of the men alarmed the surrounding country. No cattle or goods were secure for miles and barbarism seemed to be imminent, for as long as rations were supplied there was no disposition to work. Finally the scheme collapsed and the able-bodied colonists had to find employment in the adjoining counties.

Whether any plan of segregation would have been successful we cannot now determine, for the experiment was shortlived. There was no attempt to lend money on time to buy out the landlords, as the British government has done in Ireland. The opportunity to create a landed peasantry by government aid was lost, and the negroes must begin life without land unless they purchased it at private sale. Often the whites objected to selling because they did not

wish negro neighbors, and, when there was the opportunity to buy, the money was seldom available. One resource negroes had by way of enlistment in the Federal armies. Bounties and pay were distributed, amounting to millions of dollars, and not a few blacks under the direction of the bureau were thus enabled to buy lands. To the extent that it thus encouraged them to fix their ideal on the ownership of a home, especially in the country, the bureau unquestionably did good. Perhaps in the long run it was better for them to be left to their own resources, and certainly ever afterward when a negro bought land he clung to it with tenacity. Something was accomplished by the act of Congress of June, 1866, opening to homestead entry, without regard to color, public lands in Alabama, Mississippi, Missouri, Arkansas and Florida. Howard reports that in this way four thousand families acquired homes of their own and went to planting.

The bureau was more active, if not more successful, in the regulation of labor, the thing which is necessary to make land of value. None of the war plans of employment were available after the close of hostilities and the great problem had to be faced of adjusting labor conditions throughout the whole South. This was entrusted to the Freedmen's Bureau, and it was a great opportunity for good. Forced labor of course was at an end with emancipation, and the alternative of contract was to be established or evolved. On the one hand, many planters were unable to realize that slavery was permanently abolished, and others from prejudice were unwilling to make contracts, which were based on the civil equality of the contracting parties. This may seem unreasonable, but it is human nature the world over to reconcile oneself slowly and with difficulty to changes in surroundings. There were, however, many whites who acceded promptly to the new condition and acted accordingly. On the other hand, the negroes often associated freedom with idleness, the more particularly as the general understanding was that the

government would supply rations. These difficulties were serious and could only be overcome by tact and firmness. General Howard and his assistant commissioners as a rule acted with discretion and gradually order was brought out of chaos. Even the first year many contracts were made and carried out, although from the beginning a difficulty was that many freedmen preferred to roam the country or seek the cities rather than work steadily. The old incentive of an overseer's lash was lacking and many negroes fell into the shiftless habits which seem natural. Not a few, even of the intelligent, considered no man free who had to work for a living. General Howard early issued regulations as to labor which declared it the policy of the bureau to "quicken and direct the industry of the refugees and freedmen, that they and their communities may do all that can be done for the season already so far advanced to prevent starvation and suffering and to promote good order and prosperity." The officials were to make addresses to the same effect, assuring the negroes that they were free to choose their employers and would be paid, but that they should go to work.

Howard did not insist upon any particular form of contract, but suggested the following, ending with the year, as meeting his approval: "Know all Men by These Presents, That _____, of the county of _____, State of _____, held and firmly bound to the United States of America in the sum of _____ dollars, for the payment of which _____ bind _____ heirs, executors, and administrators, firmly, by these presents, in this contract: That _____ to furnish the persons whose names are subjoined (freed laborers), quarters, fuel, substantial and healthy rations, all necessary medical attendance and supplies in case of sickness, and the amount set opposite their respective names per month, during the continuation of this contract _____ the laborers to be paid in full before the final disposal of the crop, which is to be raised by them on _____ plantation, in the county of _____, State of _____:" Then followed names,

ages, and rate of pay per month. The contracts were witnessed in duplicate by bureau agents and a record retained by them. An act of Mississippi in 1865 covered the situation so fully that it was itself approved by the bureau, but in Virginia a more elaborate form was used. The freedom of contract, however, was at the suggestion of Mr. Seward curtailed so as to stop the emigration to Peru set on foot to secure higher wages.

The question of compensation was a difficult one because it was hard to fix an amount that was fair and moreover at first the circulating medium was limited. Frequently a part of the wages was paid monthly and the rest at the end of the crop season, all being secured by a lien upon the crop. On plantations the pay averaged from nine to fifteen dollars in cash for men and five to ten dollars in cash for women, but besides this, food, shelter and fuel were supplied by the employer. In other occupations the wages were somewhat higher. In towns a dollar a day was not uncommon, or half that amount with lodging and provisions found, and of course mechanics and skilled laborers received even more. In the country farming on shares became usual, because of the lack of money and because of the additional interest taken by the negro in the crop. Thus planting on halves was not unusual, the negro furnishing the labor and the planter the land, but the shares were greater or smaller according as the planter or the laborer furnished the teams.

The original Freedmen's Bureau act contained no reference to education, but it was inevitable that any system, more or less permanent, for the aid of the freedmen must concern itself sooner or later with schools. One of the mainsprings of northern efforts in behalf of the negro was perhaps the belief that only education was needed to put him on the same plane as the white man. The second Freedmen's Bureau act did enlarge the scope of the institution in that particular but sanctioned coöperation with private benevolent associations and with agents and teachers

accredited by them. The commissioner should hire or provide by lease buildings for purposes of education, whenever teachers and means of instruction without cost to the government should be provided. Over \$500,000 was appropriated for school expenses, besides what came from lease and sale of Confederate property. Army appropriation bills for two years to come also contained provisions of the same kind, and an act of June 24, 1868, authorized "unexpended balances in the hands of the commissioner, not required for the due execution of the law . . . [to be] applied for the education of freedmen and refugees."

School matters soon began to approach something of a system. The benevolent societies which had been at work in the South themselves came together into two organizations, the American Missionary Association, and the American Freedmen's Union Commission, and both of these were more or less in coöperation with the bureau. Even in 1867 the commissioner reported that the schools had extended to the "remotest counties of each of the Confederate States."

At first the instruction was mainly by whites, and these largely missionaries from the North. The whole system of benevolence, private and bureau, was based on the idea of hostility on the part of the whites to the negroes and the necessity, therefore, for outside interference. Some color was given to this by reports at different times of the burning of schools, as well as churches, which readily found credence in the North; and they sometimes had foundation, particularly in the interior of the seaboard States, and in the Union communities of the Tennessee mountains. The action of the bureau was a direct governmental sanction of this differentiation, although it is to be regretted that the plan was not at least tried of taking such Southern leaders as Gordon, Clanton, and Curry at their word and aiding the States themselves in developing schools among their freedmen. It was assumed that there was no use doing this and the very assumption could not fail to bring about the result assumed. Inevitably many Southerners were

bitterly opposed to education of the negroes, and not without reason where it assumed the form of classical instruction. It seemed to be spoiling a good workman to make a poor scholar. But at the same time any one who studied the relations of the slaves and their old masters could not fail to see that these had been sympathetic and the interest of the whites in the freedmen immediately after the close of the war contained much of promise. All this, however, was ignored and a new experiment begun. The whole South was regarded as a missionary field for church and education, and the Yankee school ma'am came. If her mission could be carried out by earnestness, it ought to have been a success. None could be more enthusiastic and earnest than these self-denying women, coming to the South to elevate what they deemed a down-trodden race, and themselves meeting with ostracism on every side. Moravian missionaries could not have been more self-sacrificing.

It was soon believed that negroes could be used as teachers, and high and normal schools were instituted. In 1869, the commissioner reported that in each State there was at least one normal school, besides chartered colleges. The Hampton Institute in Virginia, Fiske University in Tennessee, Berea College in Kentucky; and others were to prove useful, but the most famous was the Howard University, incorporated at Washington March 2, 1867, "for the education of youth in the liberal arts and sciences", with normal, collegiate, theological, law, medical, and agricultural departments. By 1869 of the 1,800 teachers in the negro schools, one-half were of the negro race.

The amount appropriated for schools was twenty-seven thousand dollars in 1865, and ran up to about a million in 1870, but then the congressional appropriation ceased and bureau supervision became nominal. The impotence of this *imperium in imperio* became clear in the educational sphere. It was an inefficient attempt to solve a problem which should have been left to the States themselves. In 1870, there were one million seven hundred thousand negro

children of school age, and hardly one-tenth were attending school, and even with those affected it amounted to little more than a veneer. One of their own race has pointed out that what was applicable in New England, with its inherited traditions, was unsuited to a people just freed from slavery and without a civilized past. Education had made such progress in New England, had raised that section to so high a rank in civilization, that it was natural for Yankees to guess that it was the sole cause; but they did themselves injustice, for New Englanders had the aptitude of mind and body which education merely developed. The same labor spent upon the negro could not produce the same result. Education is no panacea. It cannot be said that the movement was entirely without result, however, for it led to the discovery of a number of men who were in future to do good service; and yet in furnishing false standards for the sake of a temporary experiment, alienating two races who were doomed to live together, this educational movement probably did more harm than good.

The influence of the Freedmen's Bureau upon the judicial system was marked. The object of the institution was to protect the freedman in all phases of civil liberty, and thus it was found necessary to aid him in the courts. In some places the court consisted of a bureau agent and two civilians, chosen respectively by the freedman and the white man. In Mississippi and the District of Columbia the bureau retained lawyers to represent freedmen, and in North Carolina Governor Holden commissioned the bureau agents as magistrates. In Alabama, Mississippi and Georgia the regular civil tribunals under the provisional government were made freedmen's courts wherever the judges assented. In South Carolina, on the other hand, freedmen's cases were tried in provost courts.

The jurisdiction exercised covered all cases of dispute between freedmen or between whites and freedmen. It grew originally out of the provisions in what were called the Black Codes against admitting negro testimony against

whites, and included also matters of apprenticeship of negro children, who were at first indented to the former owners of the parents. In this manner in Virginia and even Maryland many children were set free from such custody. Outrages upon freedmen and their white friends were also considered by the bureau courts and also any special cases of injustice on the part of the local tribunals.

The bureau courts probably did good in individual cases, but the agents were frequently men of bad character and the judicial power was gradually diverted to the oppression of the whites rather than to the benefit of the blacks. The agents interfered in trivial affairs and were a perpetual source of annoyance to the whites without in the long run being of much benefit to the negroes. As has been said, the Freedmen's Bureau was intended as the next friend of the blacks, but appeared very often as their next enemy. Judge Hill, a Mississippi Republican of high standing, justly commented that like all other efforts of humanity the results depended upon the men who carried on the institution, and in many instances the agents were deficient and the results were not only a failure but a real injury. DuBois, himself of negro origin, finds that the bureau courts tended to become centres simply for punishing the whites.

The general result was that the attempt to interfere between the races did more harm than good. In the long run the whites, quite apart from any question of kindness and interest, were amenable to the claims of reason and justice. The foundation upon which to build for the future was the mutual good will of the races, and in particular of the late masters, as the dominant class. If the bureau was not created for the express purpose of destroying this harmony before it had time to cement, at least the operations and interposition of the bureau, itself only a temporary institution, resulted only in alienation. That this was not foreseen is one of the many mysteries of Reconstruction.

On July 6, 1868, the bureau was by act of Congress continued for one year, although it was to be discontinued in

each State which was fully restored in its constitutional relations with the government and represented in Congress, except that the educational division of the bureau should not be affected until provisions had been made by the State for the education of the negro children. The president did not take the trouble to veto this bill and it became a law without his approval. On July 25th in the same year an act was passed over Johnson's veto looking to the abolition of the bureau in the near future, and April 7, 1869, a fifth act was approved by Grant, the new president, withdrawing many of the functions of the institution, but making special provisions as to hospitals. The bureau was abolished in June, 1872.

During its existence thirteen millions of dollars were expended first and last, besides an increase of a million a year on the army. With such a large organization, many of whose agents were of dubious character, it is not wonderful that accusations of misfeasance, particularly on the financial side, obtained credence. In 1870, an investigation was held by Congress upon the resolution of Fernando Wood, but the accusations seem to have been somewhat reckless. The majority report, adopted by Congress, exonerated Howard and his associates, although there is no doubt that the report would have been otherwise if the managers of the institution and of Congress had not belonged to the same political party. It was shown that funds appropriated for one purpose were used for another, and the whole management seems to have been along the line of paternalism, not uncommon in that day. The majority report claimed that irregularities shown did not disclose any harm done, as all the funds went for the benefit of the freedmen. The connection of the bureau with Howard University and Hospital was criticised at the time, as well as the fact that Balloch, Eaton and Alvord were connected with institutions which directly or indirectly profited by dealings with the bureau. In the years following the treasury detected other irregularities in the accounts and after the books of

the institution were transferred to the Treasury Department they were found to be in great confusion. As late as 1874 an inquiry was held, under the presidency of General Sherman, but this resulted also in the approval of the court.

The Freedmen's Bureau from the time of the Reconstruction Acts became a factor in the political evolution of the negro. The registration directed by these acts was carried out under the direction of the military district commanders, and the law required that the boards of registration should be composed of three loyal officers or persons, all of whom should take the ironclad oath of 1862, which practically excluded Southerners. Schofield in Virginia directed that one member should be an officer of the army or Freedmen's Bureau if possible, and the same preference was shown in other States. It was the duty of the registrars to go from place to place and instruct the negroes as to their rights and duties in registering and voting, assuring them that they would not be allowed to suffer persecution for exercising their privileges. In this way the bureau officers exercised considerable influence at the very beginning, at the formative period of the negro's political education. They also, under Howard's instructions, counteracted as far as possible the influence of persons inimical to the freedmen.

Human nature being what it is, especially as to money and offices, it was almost inevitable that many officers of the bureau would use their position for selfish purposes. Alvord took great interest in the success of Bullock in Georgia, and restrictions, such as those by Brown in Virginia, forbidding the bureau officers to mingle personally in political contests or become partisans by accepting nomination, were not universal. Even as early as 1865, before the negro had the right to vote at all, many officials had civil offices in their minds and did not a little to urge, upon negroes and their northern friends alike, the propriety of negro suffrage.

In constitutional conventions throughout the South bureau officials played a large part, and during the administrations following many were successful candidates for State and Federal offices. Thus in Florida we have seen Assistant Commissioner Osborn dictator of one of the branches of the Republican party and elected senator. Somewhat later General Swayne, who at first enjoyed the confidence of the best men, attempted to build up the Radical party and is said to have announced himself as a candidate for senator from Alabama. The famous R. K. Scott, governor of South Carolina, had been assistant commissioner for that State, and officers of the Freedmen's Bureau attained the governorship and other positions elsewhere. General Howard permitted himself to be boomed as the running mate of S. P. Chase by a professor of Howard University sent through the South. The list could be much lengthened, as to large and small offices, for those given are only samples.

The difficulty was one which is almost inherent in American politics, that of limiting the political activity of office holders. Individually they have the same rights as other citizens, and it is hard to draw the line between private right and offensive partisanship. The officials recognized that there were some things beyond their powers as bureau officials, however, but they attained the same object in another way; and in the Union or Loyal League built up one of the most influential political institutions of the day. In its inception this had nothing to do with the South and was simply a patriotic association at the North. During the war there had been clubs and associations known as Union Leagues and the like, and with the armies the name and something of the principles were brought South. At first the movement in the South was confined to army officers, white officials and the loyalists, and in the mountain districts the membership became considerable. There were also founded negro councils, separate from the white, but gradually some of the blacks were admitted into white

associations, and by 1867 Union Republican clubs were composed largely of negroes. Most of the whites then abandoned the organization, but the few who remained managed to control the large black membership. In time there was a council in each community, in each State a grand council, and finally the national grand council, with headquarters in New York.

The object of the institution was nominally patriotic, but patriotism was expressed so broadly as to be capable of a sectional and partisan construction. Thus both State and national league constitutions declared the object to be "to preserve liberty and the Union of the United States of America; to maintain the Constitution thereof and the supremacy of the laws; to sustain the Government and assist in putting down its enemies; to protect, strengthen, and defend all loyal men, without regard to sect, condition or race; and to elect honest and reliable Union men to all offices of profit or trust in National, State, and local governments; and to secure equal civil and political rights to all men under the government."

The meetings were secret and the League had an elaborate ritual, playing on the African love of mystery and emotion. On the altar were placed as emblems of order the "Holy Bible, Declaration of Independence, United States Constitution, Flag of the Union, Censer of Incense, Sword, Gavel, Ballot Box and Sickle, Shuttle, Anvil, and other emblems of industry." These played a considerable part in the initiation of new members as well as in ordinary meetings of the society. A new member was told that his first and highest allegiance under God was due to the Government of the United States of America and he pledged himself to resist to the utmost all attempts to subvert or overthrow that government. He must not only strive for the maintenance of liberty, elevation of labor, education of all people, practice of friendship and charity toward all of the order, but "for the election or appointment to all places of public trust of such men only as are reliable supporters

of these principles and measures." The election of members to office was thus ranked with a "noble sentiment of patriotism deeply implanted in their hearts", and they were told only the purposes of the order were capable of raising men above the level of mere partisans. During a solemn prayer the room was darkened, the fire of liberty was lighted upon the altar, and the members joined hands in a circle around the candidate, who on his part took an obligation, with the left hand upon the national flag and the right raised toward heaven. A part of that pledge was "that I will do all in my power to elect true and reliable Union men and supporters of the government, and none others, to all offices of profit or trust, from the lowest to the highest, in ward, town, county, State, and General government. And should I ever be called to fill any office, I will faithfully carry out the objects and principles of this League. And further, that I will protect, aid and defend all worthy members of the U. L.; and that I will never make known in any way, to any person or persons not members of the U. L., any of the signs or passwords, proceedings, debates or plans of this or any other C. [Council] under this organization." To pass oneself as a leaguer when questioned it was necessary to "give the 'Four L.'s" as follows: right hand raised to Heaven, thumb and third finger touching their ends over the palm and announce "Liberty." Bringing the hand down over the shoulder, pronounce "Lincoln." Dropping the hand open at the side, pronounce "Loyal." With the hand and fingers downward on the chest, the thumb thrust into the vest or waistband, across the body, pronounce "League." The effect of all this on superstitious Africans was tremendous.

There was also a Loyal League Catechism, which was emphatic in its denunciation of everything Democratic and exaltation of everything Republican. It inculcated that there was no difference between Radicals and Republicans, for, although the word Radical had been applied to the Republican party by its enemy, that party had accepted it.

The members were told that the Democrats would take away all the negro's rights and pretended to be the best friends of the colored men only for the purpose of keeping them in an inferior position. This was done by the Democrats because "devoid of principle and destitute of all sense of justice where the colored man is concerned." The negroes should therefore "shun the Democratic party as they would the overseer's lash and the auction block." The statement of the white people of the South was not true that "the Republicans of the North do not care for the colored men only so far as they can use them to continue in political power." Inequalities in suffrage found at the North were due only to the Democrats and were abolished by the Republicans as fast as they came into power. The conclusion of the whole matter was the exclamation of the candidate—"Well, I am satisfied. You have clearly shown me my duty, and I will impart the information to my people." As a means to this he was given a copy of the constitution for political clubs and told to organize them among his friends. Thus secrecy, ritual and instruction gradually became the main features of the order, and the ignorant and confiding blacks were taught all that their leaders thought necessary to make them citizens.

The practical tendency of the Union League in politics was shown by resolutions adopted in the Alabama Grand Council immediately after the passage of the Reconstruction laws:

"That while we believe that participation in rebellion is the highest crime known to the law, and that those guilty of it hold their continued existence solely by the clemency of an outraged but merciful Government, we are nevertheless willing to imitate that government in forgiveness of the past and to welcome to the Republican Union party all who, forsaking entirely the principles on which the rebellion was founded, will sincerely and earnestly unite with us in establishing and maintaining for the future a government of equal rights and unconditional loyalty.

"That we consider willingness to elevate to power the men who preserved unswerving adherence to the Government during the war as the best test of sincerity in professions for the future.

"That if the pacification now proposed by Congress be not accepted in good faith by those who staked and forfeited 'their lives, their fortunes, and their sacred honor' in rebellion, it will be the duty of Congress to enforce that forfeiture by the confiscation of the lands, at least, of such a stiff-necked and rebellious people.

"That the assertion that there are not enough intelligent loyal men in Alabama to administer the government is false in fact, and mainly promulgated by those who aim to keep treason respectable by retaining power in the hands of its friends and votaries."

Nor was the Union League a theory only; it was a practice. Negro bolters were severely dealt with. Thus, evidence shows that the preacher of a negro church "stopped the secretary from his office salary because he was a democrat, and stopped another man from being deacon of the church. . . . He put it to a vote and silenced him from his membership, expelled him from the church." School teachers had their scholars taken away from them. Negro Republicans admitted that they did not like to have any communion with negro Democrats and ostracized them "because they have left their right place." Sometimes negroes talked of hanging apostates and for safety these had to go into hiding.

The result of the indirect teaching of the Freedmen's Bureau and the secret but direct activity of the Union League was practically to make the negro Republican voters impervious to any other influence. In this we have an explanation of the fact, otherwise strange, that the southerners lost hold of the negro as soon as he became a voter. One would have supposed that the native whites, who had lived among the negroes from childhood, knew them and their ways, would have influenced them as voters, particularly

as the preservation of the country from ruin made this almost essential. At first negro suffrage appeared to some to be so absurd as not to be taken seriously, and this great mistake was not realized until too late. On the other hand it was not unnatural that influence should be secured by the northerners. Emancipation had been effected by northern arms and the negroes regarded everything and everybody from the North as friendly to themselves. They were to be long in discovering that men who left their homes after the war in order to come South must have some other object than the advancement of other people's interests. Moreover, white influence or interference was against the spirit of the Reconstruction laws, a fact inculcated by the military and bureau officials alike. And now added to all that came the institution of the Union League.

The promised forty acres and a mule were not realized through the bureau, and even the Union League secured the election of alien whites to office rather than native blacks. But there was another promise made to the negroes, and philanthropists preached to him the advantages of saving. The germ is found in the military banks or depositories at Norfolk and Beaufort established during the war to aid the negro soldiers. Most of the pay and bounty money deposited was still on hand at the close of the war, and this fact seems to have suggested the idea of a permanent bank. Banking, like political instruction, was not the official work of the Freedmen's Bureau, but as in the case of the Union League was carried out by some of the same men acting through a different organization.

We now reach, therefore, the Freedmen's Savings and Trust Company, incorporated the same day as the bureau, March 3, 1865. Some fifty names of prominent people were mentioned in the act of incorporation, and the object of the corporation was declared to be receiving "on deposit such sums of money as may be from time to time offered therefor by or on behalf of persons heretofore held in slavery in the United States, or their descendants, and

investing the same in stocks, bonds, treasury notes, or other securities of the United States." Trusts were also to be carried out and unclaimed deposits, after certain advertisement, were to be used for "education and improvement of persons heretofore held in slavery, or their descendants, being inhabitants of the United States, in such manner and through such agencies as the board of trustees shall deem best calculated to effect that object." Officers were forbidden to borrow deposits and no salary should be paid to the trustees. The officers gave bonds and books were to be open to the inspection of Congress; but beyond this no safeguards existed.

The covers of the savings books told the freedmen how much a dime a day at six per cent interest would amount to in ten years, each was ornamented with poetry, quotations from General Howard and the approval of Lincoln, and the statement that "this is a benevolent institution. All profits go to the depositors or to educational purposes for the freedmen."

The real founder of the institution was John W. Alvord, of the Freedmen's Bureau; and he together with the finance committee, which was under his control, were the managers. Alvord took a trip through the South in the fall of 1865 and established branches in Richmond, Norfolk, Newbern, Wilmington, Charleston, Beaufort, Savannah, Mobile, New Orleans, Vicksburg, Huntsville, Nashville, Memphis, and Louisville, and others were founded later in New York, Philadelphia and other places.

The bank did an increasing business year by year. In 1866, the deposits were \$305,167 and by next year five times as much. In 1868, the deposits were over three millions and a half, and the succeeding year double; in 1870, they had become over twelve million, and the next year almost twenty million. Of course much was checked out in current accounts, but in 1869 the balance due depositors exceeded one million and increased each year. By 1874 there were fifty branches in different towns. The

deposits at Augusta, Louisville, Memphis, Mobile, Norfolk, Richmond, Savannah, and Vicksburg each approximated one hundred thousand dollars, while at Baltimore, Charleston, New Orleans, New York, and Washington they ranged from two hundred and fifty-five thousand dollars to three hundred and eighty-four thousand, the largest being at the home office in Washington.

Fred Douglass records that the managers "erected on one of the most desirable and expensive sites in the national capital one of the most costly and splendid buildings of the time, finished on the inside with black walnut and furnished with marble counters and all the modern improvements. The magnificent dimensions of the building bore testimony to its flourishing condition. In passing it on the street I often peeped into its spacious windows, and looked down the row of its gentlemanly and elegantly dressed colored clerks, with their pens behind their ears and button-hole bouquets in their coat-fronts, and felt my very eyes enriched. It was a sight I had never expected to see. I was amazed with the facility with which they counted the money. They threw off the thousands with the dexterity, if not the accuracy, of old and experienced clerks. The whole thing was beautiful. I had read of this bank when I lived in Rochester, and had indeed been solicited to become one of its trustees, and had reluctantly consented to do so; but when I came to Washington and saw its magnificent brown stone front, its towering height, its perfect appointments and the fine display it made in the transaction of its business, I felt like the Queen of Sheba when she saw the riches of Solomon, that 'the half had not been told me.'"

At first the enterprise was promising, but naturally the numerous non-resident trustees could not attend meetings and control fell into the hands of Alvord and others at Washington. Instead of restricting investments to the securities authorized by the act, the managers invested them in different enterprises, more or less promising, and in

particular, the different contractors for the improvement of Washington in the time of Boss Sheppard received much aid.

Douglass says that later he was solicited by some of its trustees to allow them to use his name as a candidate for its presidency. "So I waked up one morning to find myself seated in a comfortable arm-chair, with gold spectacles on my nose, and to hear myself addressed as President of the Freedmen's Bank. I could not help reflecting on the contrast between Frederick the slave boy, running about Colonel Lloyd's with only a tow linen shirt to cover him, and Frederick—President of a bank counting its assets by millions. I had heard of golden dreams, but such dreams had no comparison with this reality. And yet this seeming reality was scarcely more substantial than a dream. My term of office on this golden height covered only the brief space of three months, and these three months were divided into two parts, during the first part of which I was quietly employed in an effort to find out the real condition of the bank and its numerous branches. This was no easy task. On paper, and from the representations of its management, its assets amounted to three millions of dollars, and its liabilities were about equal to its assets. With such a showing I was encouraged in the belief that by curtailing the expenses, and doing away with non-paying branches, which policy the trustees had now adopted, we could be carried safely through the financial distress then upon the country." So confident was he of this, that he loaned the bank himself ten thousand dollars to meet what was said to be a temporary emergency, and to his surprise found difficulty in collecting the loan. He says: "The more I observed and learned the more my confidence diminished. I found that those trustees who wished to issue cards and publish addresses professing the utmost confidence in the bank, had themselves not one dollar deposited there. Some of them, while strongly assuring me of its soundness, had withdrawn their money and opened accounts elsewhere. Gradually I discovered that the bank had, through dishonest agents,

sustained heavy losses at the South; that there was a discrepancy on the books of forty thousand dollars for which no account could be given, and that, instead of our assets being equal to our liabilities, we could not in all likelihoods of the case pay seventy-two cents on the dollar."

After careful inquiries Douglass found the reserve fund was exhausted and he was within six weeks "convinced that it was no longer a safe custodian of the hard earnings of my confiding people. This conclusion once reached, I could not hesitate as to my duty in the premises, and this was, to save as much as possible of the assets held by the bank for the benefit of the depositors; and to prevent their being further squandered in keeping up appearances, and in paying the salaries of myself and other officers in the bank. Fortunately, Congress, from which we held our charter, was then in session, and its committees on finance were in daily session. I felt it my duty to make known as speedily as possible to Hon. John Sherman, Chairman of the Senate Committee on Finance, and to Senator Scott, of Pennsylvania, also of the same committee, that I regarded the institution as insolvent and irrecoverable, and that I could no longer ask my people to deposit their money in it. This representation to the finance committee subjected me to very bitter opposition on the part of the officers of the bank."

Douglass insisted that the bank "ought to stop", and, as the finance committee took the same view, in a few weeks an act of Congress appointed three commissioners to take charge and "bring this imposing business to a close." This was done February 14, 1874. Douglass was "accused of bringing the Freedmen's Bank into ruin, and squandering in senseless loans on bad security the hardly-earned moneys" of his race, but all the loans made were prior to his presidency. He even left two thousand dollars of his own on deposit and only received dividends on it like other depositors. Hardly fifty cents on the dollar was realized.

Such were the workings of the Freedmen's Bureau and its accessories, the Union League on the political side and

the Freedmen's Bank on the financial. The whole was one movement, founded on humanitarian impulses and designed to encourage labor, saving and political uplifting. Before negro suffrage was decreed the movement did some good, for then altruism had some play; but, suffrage once given, the temptation to misuse influence and position proved too great for the agents and officers, especially as political feeling ran so high as to consider criticism treasonable and to lead the high officers of state, from President Grant to Congress, to shield subordinates from attack.

And what was the result? Not only did the government not establish public schools or secure homes for the freedman, but the agencies encouraged by it tended directly to his spoliation, and, even worse, to sow distrust between the negro and the southern white man with whom he must live and on whom must depend his future. To this was largely due the fact that the labor question became a race problem, the color line a political division.

The Freedmen's Bureau during its life tended, consciously or unconsciously, to take the place of the master, to supersede the old relation by new associations. Its opportunity was great and much depended upon how it would be used. Apart from the ambition and possible inefficiency of the agents, however, there were two respects in which the bureau from its nature could hardly fail to injure the freedman. The one was that it was a civil, a governmental organization, and so to a very large extent shut out from exercising any uplifting, spiritual influence. It indirectly encouraged churches founded by northern missionary efforts, but it could not at the best furnish any religious ideal to an emotional race, with whom religion must play a great part. The bureau could not even remedy the defect of the old slave system and create a full respect for the marriage relation. And yet the family lies at the foundation and its place cannot be taken by either of the two other fundamental institutions, by religious fervor or by political activity. Nor was there any real change in the

two-facedness the negroes had brought from Africa; for with man, as with the other animals, deceit is the defense of the weak,—and even the white man might yet prove the rule.

In another respect the bureau instilled a false ideal. Being a Federal creation, acting independently of the State and local governments, force of circumstances almost inevitably threw it into opposition to them. The negro being regarded as the ward of the nation, sharp oversight was exercised, and in the excited political conditions of the time unavoidably exercised, over the regulations prescribed by the States. This not only tended to produce alienation between the whites and blacks, not only prevented the negro from acquiring a love for the local institutions, which in our system is the foundation of everything else, but it substituted a national dependence, a reliance upon an external force, which could hardly fail to be an injury to him and to his interests. It built on the oriental policy of a strong but distant power instead of the Anglo-Saxon ideal of local self-government.

The main object of Reconstruction was to help the negro, and we find in the means provided for his uplift, the Bureau, the League and the Bank,—the doom of the policy. If the foundation was false and hollow, can we wonder that the political structures erected on it were rotten and insecure? Could not those busy on such a fool's errand foresee that the whites also could organize, that secret rites and orders might be used against African supremacy as well as to build it up? Truly, whom the gods wish to destroy they first make mad.

CHAPTER XVI

THE KU KLUX KLAN

THE history of civilization is not always one of gradual progress. The improvements brought by trade, commerce and manufactures, are often realized after years of silent growth; but the advance of thought, whether religious or political, is sometimes by leaps and bounds, separated by reactions. Some great truth may be preached, some master of men appear, and, overcoming all resistance, leave his country or epoch different from what it was before. It may be a race or national consciousness which comes and sweeps all before it; sometimes, a secret society whose branches ramify throughout a country or a continent. Christianity perhaps is the greatest example in history, and since the Crusades the French Revolution has been the greatest solvent in civilization. In America the revolt against slavery was a striking example,—at first individual, then fanatic, and at last a national movement.

History shows many of these revolutions as beginning secretly. Some have failed under the opposition of the established order, but in others mystic symbols and brotherhoods have protected the movement until strong enough to throw aside disguise. The Latin countries have been the chosen home of such organizations. The French Revolution had other societies than the Jacobins, and the Italian order of the Carbonari after the fall of Napoleon marked a union of religion and republicanism which in some sense changed the history of France as well as Italy. But the

northern countries can also show such influences. The German revolt organized by Stein against Latin conquerors was successful, and the Nihilists of Russia are an order whose power is daily felt. The secrecy of a movement does not always prove its righteousness, but it does strangely tend to advance the cause; for true it is that whenever earnest convictions exist, whether right or wrong, the attempt at suppression only creates revolt.

American history furnishes some proof of this tendency. It is true we have learned to believe that political activity should express itself through political parties, each with a known history and public platform, and secret societies designed to influence the action of the State are regarded as un-American. And yet this is an evolution. The secret Know Nothing party claimed to found itself upon the purest patriotism, and aimed to hold America for Americans. If agitation is suppressed, it will inevitably organize itself secretly. After the Civil War we have seen how northern organizers sought to counteract the influence of the former masters by giving the sincere milk of the new word in secret to the enfranchised negroes, and the success of the movement in placing the minority of whites in power we have seen illustrated in every reconstructed State. But gradually there seemed to be a reaction in some quarters. The native whites in a large measure fell away from the movement to republicanize the South, and even negroes became less earnest. It was as if the flood, which for the time being swept everything before it, was gradually receding, leaving new elements behind, but elements which were absorbed and which would be worked out by the people who had been there before.

The most useful and sometimes the most lasting institutions are those which grow out of the needs of the time. In the South immediately after the war the most pressing thing at first was police control of the unstable freedmen and after that restoration of the political structure. These two tendencies finally met in one movement, but at the

beginning they were separate. The existence of regulators was no unknown thing on the American frontiers, nor had they been unknown in the Southwest even after it ceased to be a frontier. In the course of early southern development there had been what was called the patrol system, whereby white men, themselves under official supervision, by day and particularly by night visited negro quarters and settlements, and saw that peace and order were maintained. It was a survival of the old English system of frankpledge. If it indicated in America, as it had in England, weakness of the central government, it testified no less strongly to the power of local organization. In some form the antebellum custom was revived after the war, and, as a further step, when the State governments were restored by President Johnson there was a general attempt to re-create the old militia system. This had to some extent a different object from the patrol, but represented the same tendency, organized more efficiently. The Federal military, however, interfered quite generally with the militia system and Congress by different enactments sooner or later put an end to it. The reason for this was a distrust of the southern whites, the fear that they aimed more at keeping negroes in subjection than at police control. The result was to create smouldering discontent.

The abolition of the restored governments not only struck down all police supervision of the freedmen, but brought to the fore another question; for it challenged the Anglo-Saxon love of local self-government. To the necessity for police of the laborer was added the demand of the whites for management of local affairs. Gradually circles, clubs and organizations sprang up over the country, varying in name and form, but directed more or less consciously to the regulation of the freedmen and the supremacy of the white race. Under the energetic radicalism of Governor Brownlow the State of Tennessee was almost in a state of civil war, and there such organizations might be expected to become energetic on their side.

In May, 1866, it chanced that at Pulaski in the southern part of Tennessee there was organized a social club which adopted for its name a variation of the Greek word *Kuklos*, circle. It was spelled *Ku Klux* and some wag suggested the addition for euphony of the word "klan"; and thus the full name came to be *Ku Klux Klan*. Among the negroes the alliteration was carried further and the club was known as the *Klu Klux Klan*. This organization might have proved unimportant, for there had been many social clubs before, and not a few used disguises. A well-known example was the *Cowbellion De Rakin Society* of Mobile, organized in 1831 for the celebration of New Year's eve. Even this achieved some note, as ultimately it led to the institution of *Mardi Gras* societies. The *Pulaski Den*, as it came to be known, was to become famous, too. Its masks and weird costumes became well known locally, and the white draped sentinels placed on the road, to guard from intrusion the meetings in a suburban house, became the aversion if not the fear of the superstitious. But it soon ceased to be purely social. The influence unconsciously exercised over the negroes led to a thought of using the movement for police purposes. When this was carried out, other dens were formed in nearby counties, and the order gradually spread through the neighboring States of Alabama and Mississippi.

The president of the den was called the *Grand Cyclops*, his assistant a *Grand Magi*, the marshal the *Grand Turk*, while the treasurer was the *Grand Exchequer* and the guards were *Lictors*. A form of initiation was adopted, part of which was an oath not to disclose the names of members or the object of the order. The secrecy surrounding the society led to a rapid increase in numbers and in power, the more particularly as every effort was exercised to restrict the membership to men of good habits, and because the newspapers spread its reputation far and wide.

At the beginning the *Ku Klux*, therefore, was in no sense a band of regulators, but the circumstances of the time pointed to the necessity for such work. This had already been

undertaken unsystematically in many places and in taking up this mission the Pulaski Den became the organizing power of a great movement. Upon any complaint of disorder due to the negro population, the silent apparition of the Ku Klux had a beneficial effect. Stealing ceased and unruly negroes remained at home. There was even greater danger from the leaders of the negroes, those aliens who were soon called Carpet-baggers, as well as those natives whom the Southerners termed Scalawags. The activity of the Ku Klux was extended to these two classes also, and with equally effective results.

The Pulaski Den soon appreciated the importance of the movement which it led if it had not inaugurated, and issued a call through its Grand Cyclops for a convention of the different known dens. This met at Nashville in the summer of 1867. The Gulf States as well as some others were represented and a close and permanent system was worked out. That the organization was not intended to be treasonable is shown by its declarations on that occasion, then secret but now revealed: "We recognize our relations to the United States Government; the supremacy of the Constitution; the constitutional laws thereof; and the union of States thereunder." The objects were expressed to be: "(1) To protect the weak, the innocent and the defenceless, from the indignities, wrongs, and outrages of the lawless, the violent, and the brutal; to relieve the injured and the oppressed; to succour the suffering and unfortunate, and especially the widows and orphans of the Confederate soldiers. (2) To protect and defend the Constitution of the United States, and all laws passed in conformity thereto, and to protect the States and the people thereof from all invasion from any source whatever. (3) To aid and assist in the execution of all constitutional laws, and to protect the people from unlawful seizure, and from trial except by their peers in conformity to the laws of the land."

The constitution, or Prescript, placed the South under various officials. The whole field was called the Empire,

ruled by a Grand Wizard, who was no less than the great strategist, N. B. Forrest. Each State was a Realm, under the jurisdiction of a Grand Dragon and eight Hydras, several counties would make up a Dominion, ruled by a Grand Titan and six Furies, while the county itself was a Province under a Grand Giant and four Goblins. The unit of all was the individual Den, of which there might be any number in a county, whose private members were called Ghouls. Although the Pulaski Den was regarded as the parent organization, the headquarters of the order were now established at Memphis, and in order to secure better control many officers who had been elected were thenceforward appointed.

The original Prescript had some pretense to literary merit and abounded with Latin quotations. Thus, on the title page was *Damnante quod non intelligunt*, and then followed on the tops of successive pages such maxims as *nec scire fas est omnia*, *Magna est veritas et prevalebit*, and the like. The practice of the order certainly justified the quotation *Ars est celare artem*, and the energy of the movement was reflected in *Fiat justitia ruat coelum*. An Amended Prescript was adopted in 1868. This is eight pages longer than the other, although it omits the poetical selections, and there are some changes in the administrative features. Its publication was as weird as its contents. The *Citizen*, a Pulaski newspaper, was to some extent an official organ, and through a hole in its office wall was arranged the printing. There was placed the manuscript and there the money to pay for it, and, as directed, all was done in secrecy. The galleys were concealed as set up, the pamphlets stitched in a back room, trimmed on the floor with a shoe knife, and finally left wrapped up outside the door. Thence the documents were taken away by night and ultimately found their way to the different dens. The form used in the Carolinas was somewhat different, possibly by intention, possibly because written from memory; but the Amended Prescript was substantially followed.

As a creed, the Prescript declared: "We, the Order of * * *, reverentially acknowledge the majesty and supremacy of the Divine Being, and recognize the goodness and providence of the same. And we recognize our relation to the United States Government, the supremacy of the Constitution, Constitutional Laws thereof, and the Union of States thereunder." Then follow the character and objects of the order,—“an institution of Chivalry, Humanity, Mercy, and Patriotism; embodying in its genius and its principles all that is chivalric in conduct, noble in sentiment, generous in manhood, and patriotic in purpose.”

Next are described the local subdivisions, the titles and duties of officers, the judiciary, revenue, membership, and the like. One seeking to join must answer upon oath whether he had been a member of the Radical Republican party, Loyal League, or Grand Army of the Republic; whether he was opposed to the principles and policy of these three organizations; whether he belonged to the Federal army, was opposed to negro equality, favored a white man's government, maintaining the constitutional rights of the South, enfranchisement of the white man, and the inalienable right of self-preservation of the people against the exercise of arbitrary and unlicensed power. Upon admission he took this final obligation: "I, ———, of my own free will and accord, and in the presence of Almighty God, do solemnly swear or affirm, that I will never reveal to any one not a member of the Order of * * *, by any intimation, sign, symbol, word or act, or in any other manner whatever, any of the secrets, signs, grips, pass-words, or mysteries of the Order of the * * *, or that I am a member of the same, or that I know any one who is a member; and that I will abide by the Prescript and Edicts of the Order of the * * *. So help me God."

One article required that the mysteries and ritual of the order should be communicated orally and never written, and the last required that the most profound and rigid secrecy concerning any and everything that relates to the Order

should at all times be maintained, and that any member who should reveal or betray the secrets should suffer the extreme penalty of the law. At the end came as "L'Envoi", "To the lovers of law and order, peace and justice, we send greeting; and to the shades of the venerated dead we affectionately dedicate the Order of the * * *."

The order both in origin and development owed much to the Scotch-Irish, for they were the main stock of the mountain and high lands where the movement began. The movement struck a popular chord and spread rapidly. At first there were official papers for distribution of Ku Klux information. Thus at Tuscaloosa was the *Independent Monitor*, conducted by Ryland Randolph, who was otherwise prominent in politics. The chief judicial officer was General Albert Pike, a noted Mason, and among members besides General Gordon, of Georgia, may be mentioned A. H. Colquitt, of the same State, and General W. J. Hardee, of Alabama. Forrest was not one of the original members, but joined it after investigation and did much to make it efficient in operation.

While the Klan was being transformed from a social to a political organization in Tennessee, there was being organized in Louisiana, where the negroes predominated, another mystic brotherhood, which was destined to have perhaps a greater influence, although its name was to be lost in that of the older order. The Pulaski Ku Klux as soon as known gave a rallying point and a centre of influence for white men throughout the upper tier of the States, while on the other hand the federation of Louisiana organizations, established May 23, 1867, gradually performed the same office for the States and districts where the blacks were more numerous. A convention in New Orleans in 1868 formed a permanent organization, constitution, ritual, and working rules, under the name of Knights of the White Camellia, or Camellia as more properly called in Louisiana. It was no rival of the Ku Klux Klan, but occupied a different territory and coöperated with it where they came in contact.

The essential feature of the White Camelia was the belief and teaching of the supremacy of the white race in America, and the order was designed to cover not only the South but the whole United States. Few copies of its fundamental law survive. One was exhumed only in recent years from under the floor of a smokehouse in Alabama, and in the preamble declares that "Radical legislation is subversive of the principles of the Government of the United States, as originally adopted by our fathers. . . . Our safety and our prosperity depend on the preservation of those grand principles, and believing that they can be peacefully maintained", the order adopted a constitution incorporating them and provided for a Supreme Council of the United States, a Grand Council in each State, a Central Council in each county or parish, all resting upon local councils of at least five men in each community. The membership was strictly guarded. No person could be admitted who was not a white man eighteen years of age, selected by the council, and his qualifications carefully examined. Charges against officers and members were investigated and might result in expulsion or other punishment. The order could not as a body nominate, adopt or support any candidate for a political office, but was in general to do everything to secure the supremacy of the white race. After an elaborate initiation, accompanied by questions, answers and oath by the blind-folded applicant, the following charge was administered:

"You have been initiated into one of the most important Orders, which have ever been established on this continent: an Order, which, if its principles are faithfully observed and its objects diligently carried out, is destined to regenerate our unfortunate country and to relieve the White Race from the humiliating condition to which it has lately been reduced in this Republic. . . .

"Our main and fundamental object is the MAINTENANCE OF THE SUPREMACY OF THE WHITE RACE in this Republic. History and physiology teach us

that we belong to a race which nature has endowed with an evident superiority over all other races, and that the Maker, in thus elevating us above the common standard of human creation, has intended to give us over inferior races, a dominion from which no human laws can permanently derogate. The experience of ages demonstrate that, from the origin of the world, this dominion has always remained in the hands of the Caucasian Race; whilst all the other races have constantly occupied a subordinate and secondary position; a fact which triumphantly confirms this great law of nature. . . . And it is a remarkable fact that as a race of men is more remote from the Caucasian and approaches nearer to the black African, the more fatally that stamp of inferiority is affixed to its sons, and irrevocably dooms them to eternal imperfectibility and degradation.

"Convinced that we are of these elements of natural ethics, we know, besides, that the government of our Republic was established by white men, for white men alone, and that it never was in the contemplation of its founders that it should fall into the hands of an inferior and degraded race. We hold, therefore, that any attempt to wrest from the white race the management of its affairs in order to transfer it to the control of the black population, is an invasion of the sacred prerogatives vouchsafed to us by the Constitution, and a violation of the laws established by God himself; that such encroachments are subversive of the established institutions of our Republic, and that no individual of the white race can submit to them without humiliation and shame. . . .

"As an essential condition of success, this Order proscribes absolutely all social equality between the races. If we were to admit persons of African race on the same level with ourselves, a state of personal relations would follow which would unavoidably lead to political equality; for it would be a virtual recognition of status, after which we could not consistently deny them an equal share in the administration of our public affairs. The man who is good

enough to be our familiar companion, is good enough also to participate in our political government; and if we were to grant the one, there could be no good reason for us not to concede the other of these two privileges.

"There is another reason, Brothers, for which we condemn this social equality. Its toleration would soon be a fruitful source of intermarriages between individuals of the two races; and the result of this *miscegenation* would be gradual amalgamation and the production of a degenerate and bastard offspring, which would soon populate these States with a degraded and ignoble population, incapable of moral and intellectual development and unfitted to support a great and powerful country. We must maintain the purity of the white blood, if we would preserve for it that natural superiority with which God has ennobled it.

"To avoid these evils, therefore, we take the obligation TO OBSERVE A MARKED DISTINCTION BETWEEN THE TWO RACES. . . .

"Our statutes make us bound to respect sedulously the rights of the colored inhabitants of this Republic, and in every instance, to give to them whatever lawfully belongs to them. It is an act of simple justice not to deny them any of the privileges to which they are legitimately entitled; and we cannot better show the inherent superiority of our race than by dealing with them in that spirit of firmness, liberality and impartiality which characterizes all superior organizations. Besides, it would be ungenerous for us to undertake to restrict them to the narrowest limits as to the exercise of certain rights, without conceding to them, at the same time, the fullest measure of those which we recognize as theirs; and a fair construction of a white man's duty towards them would be, not only to respect and observe their acknowledged rights, but also to see that these are respected and observed by others.

"From the brief explanation which I have just given you, you must have satisfied yourselves that our Association is not a political party, and has no connection with any

of the organized parties of the day. Nor will it lend itself to the personal advancement of individuals, or listen to the cravings of any partisan spirit. It was organized in order to carry out certain great principles, from which it must never swerve by favoring private ambitions and political aspirations. These, as well as all sentiments of private enmity, animosity and other personal feelings, we must leave at the door before we enter this Council. You may meet here, congregated together, men who belong to all the political organizations which now divide, or may divide this country. . . ."

The practical administration of the White Camelia was analogous to that of the Ku Klux, their operations running along the same lines and performed in the same manner, both playing upon the imagination of the negro and the fears of the renegade and alien whites.

The membership of the Ku Klux has been variously estimated and on account of its loose organization only imperfect records existed, and even these have since been destroyed. General Forrest, the Grand Wizard of the whole order, estimated that there were forty thousand members in Tennessee and five hundred and fifty thousand throughout all the Southern States. This was at most a likely guess, and to it must be added the White Camelia. There were enough to have an important influence upon the history, not only of the South, but of the whole country. The secret orders might be described as a ghost army, the shadowy counterpart, perhaps, of the old Confederacy, and in their earlier history they pretended to represent its soldiers. As to their procedure, there was often an imitation language used, which the negroes called "mummicking" and itself effective. Hooting like owls played a great part in the signals for assemblage in forests or other lonely resorts. The costume was not alike in every place, although it generally consisted of a flowing robe, often white, with high cardboard head gear, bedecked with skulls and crossbones.

A fundamental characteristic of the African, both in his old and new homes, is superstition, and the ex-master knew how to turn this to account in the administration of the Invisible Empire, both in the original seats in Tennessee and Louisiana, and throughout the whole South. The Ku Klux methods of operation were therefore principally three in number. There were parades, men and horses covered with drapery, and when executed in cities and towns this created a great impression among all people. Thus, such an appearance of four hundred men at Pulaski was magnified into thousands, and on the other hand at Huntsville during the parade of probably fifteen hundred Ku Klux there was a veritable riot. Perhaps a band would visit some Union League assembled in a church or school house, march silently in and out, and the result would be that the meetings would cease or at least be without pernicious activity for the future. Or singly one might ask a drink of water and by means of a concealed leather bag or otherwise consume a gallon at a time, telling the bewildered freedman that this was the first drink the Ku Klux had had since he was killed at the battle of Shiloh. Or one would use a skeleton hand, or take off his imitation skull and ask the negro to hold it while he adjusted his backbone,—with results that were lasting.

A second method was that of warnings to those deemed in need of discipline. Notices were published in newspapers until the military commanders, Meade for instance, prohibited this method of dissemination, and often they were posted in prominent places, or were delivered by mail or otherwise. They were expressed in dismal, high-flown or absurd phraseology, but effective for their purpose not only against the blacks but the whites as well.

For some time the parades and warnings were sufficient, but later a third method, that of actual violence, was deemed necessary. In this way bands would seize some obnoxious person and inflict a whipping, or perhaps more severe measures would be used. An offender might be

driven out of the neighborhood, or in extreme cases even taken to some quiet place and killed. Occasionally a negro school or church would be burned, but generally only when these were used for political purposes. The better to avoid detection, non-resident bands made the raids. An Alabama den would carry out punishment in Mississippi, or distant counties perform such friendly offices for each other.

The transformation of the order from its original to a more violent character can be seen indicated in this edict published by the Pulaski Den in 1869.

"HEADQUARTERS REALM NO. 1,
DREADFUL ERA, BLACK EPOCH,
DREADFUL HOUR.

"General Order No. 1.

"Whereas, Information of an authentic character has reached these headquarters that the blacks in the counties of Marshall, Maury, Giles and Lawrence are organized into military companies, with the avowed purpose to make war upon and exterminate the Ku Klux Klan, said blacks are hereby solemnly warned and ordered to desist from further action in such organizations, if they exist.

"The Grand Dragon regrets the necessity of such an order. But this Klan shall not be outraged and interfered with by lawless negroes and meaner white men, who do not and never have understood our purposes.

"In the first place this Klan is not an institution of violence, lawlessness and cruelty; it is not lawless; it is not aggressive; it is not military; it is not revolutionary.

"It is, essentially, originally and inherently a protective organization. It proposes to execute law instead of resisting it; and to protect all good men, whether white or black, from the outrages and atrocities of bad men of both colors, who have been for the past three years a terror to society, and an injury to us all.

"The blacks seem to be impressed with the belief that this Klan is especially their enemy. We are not the enemy of

the blacks, as long as they behave themselves, make no threats upon us, and do not attack or interfere with us.

"But if they make war upon us they must abide the awful retribution that will follow.

"This Klan, while in its peaceful movements, and disturbing no one, has been fired into three times. This will not be endured any longer; and if it occurs again, and the parties be discovered, a remorseless vengeance will be wreaked upon them.

"We reiterate that we are for peace and law and order. No man, white or black, shall be molested for his political sentiments. . . .

"Outrages have been perpetrated by irresponsible parties in the name of this Klan. Should such parties be apprehended, they will be dealt with in a manner to insure us future exemption from such imposition. These impostors have, in some instances, whipped negroes. This is wrong! wrong! It is denounced by this Klan as it must be by all good and humane men."

The power of the Ku Klux was recognized by the hostile legislation launched against it. Under the Brownlow government in Tennessee there was enacted in September, 1868, a stringent law for the detection, apprehension and trial of offenders. By it officers were rewarded or severely punished, according to the performance of the duties imposed, and communities were rendered liable for damages to those who were injured or to their families.

This Ku Klux act was the model for a number of States. Alabama followed it in December and other enactments soon provided for martial law and for damages. The disorders complained of were marked in Mississippi also, but stringent legislation was not had until 1870.

It was impossible to keep such an organization from gradually changing its character. At first it was composed of the best citizens, but gradually others were admitted and as is usual the more violent spirits became in time the

leaders. Indeed, its looseness led to its imitation by others not at all in sympathy with its objects. Not only did Radical leaders use the existence of the Ku Klux for their own purposes in invoking aid from Washington, but in not a few instances when alleged Ku Klux were caught and unmasked it was found that they were Radicals themselves, intent perhaps on private vengeance.

When Brownlow ceased to be governor, the local need for the Klan ceased in Tennessee, and its imitation by irresponsible people indicated that its usefulness was in peril. When it became evident, that, like Aladdin's giant let out of the bottle, the movement was passing beyond its proper function, the Grand Wizard, acting under the powers conferred upon him by the laws of the order, issued an edict in March, 1869, dissolving the Invisible Empire.

The Ku Klux attracted general attention. Congress on May 31, 1870, passed what was called the Enforcement Act, designed to protect the right of all citizens to vote at elections, Federal or local, without distinction of race, color or previous condition of servitude, and incidentally severely punishing through the United States District Courts the offense of going in disguise upon highways or elsewhere for the purpose of oppressing, injuring or intimidating any person with the intent to prevent the free exercise of any right under the laws of the United States. Federal court practice was broadened and officials increased to aid in the execution of the act, and it was declared lawful for the president to employ the militia or the land and naval forces of the United States in the execution of such judicial process. The old Civil Rights Act of 1866 was reenacted as a part of this new law and its principal provisions were to be enforced by the same means. A supplemental Enforcement Act was also passed next year, and Federal supervision did not even cease here. President Grant called attention to numerous complaints of disorders at the South, and on April 20, 1871, largely at the instance of Sumner, Congress passed what is known as the Ku Klux Act, extending

further, if possible, the conspiracy provisions of the Enforcement Law. Among the offenses denounced was conspiring or going in disguise upon the public highways or the premises of another for the purpose of depriving any person of equal protection of the laws, and also impeding the due course of justice for that purpose. Courts were given the power to exclude jurors whom they might think in complicity with conspiracies. In case of death by such wrongful act, the legal representatives could recover damages, not exceeding five thousand dollars. Wherever unlawful combinations obstructed laws, State or Federal, so as to deprive persons of any rights named in the constitution, and the local authorities were unable or did not furnish protection, the president might intervene with the militia or land and naval forces of the United States. When such combinations set at defiance the constitutional authorities or such authorities were in complicity with them, and convictions were impracticable, it would be considered a new rebellion and the president should suspend the right of *habeas corpus* and after proclamation proceed to put down the insurrection. The enforcement of this legislation caused a great deal of agitation and military violence throughout the South.

By way of finding reasons for the legislation, Congress appointed a joint investigating committee, almost wholly Republican, who in the summer of 1871 met at Washington and examined witnesses, and in the fall journeyed through the South, taking testimony. Their report and evidence are in thirteen large volumes, which contain a mass of facts and fancies of great value to the student of the times.

It may be doubted whether this legislation, particularly the Federal, resulted in the suppression of the Ku Klux and similar orders. In the first place the Ku Klux proper had ceased to exist by the decree of the Grand Wizard in 1869, and in point of fact in some respects disorders were more noticeable after the passage of the laws than before. The legislation did have some effect, however. In the first

place it encouraged the Radicals and their negro followers to continue their performances and in the same proportion exasperated the whites; for the enforcement of the new laws through the courts brought in many districts a veritable reign of terror. Often respectable citizens, the victims of spite, were taken from their homes and carried long distances to the cities, and there tried by packed juries and partisan judges. The Supreme Court in the case of *United States vs. Harris*, 106 U. S., 629, in 1883, declared unconstitutional such wholesale interference by the Federal legislature; but the damage had been long since done.

Probably the general administration of the secret orders ceased, but there is good reason to believe that what was called the Ku Klux, merely assumed another form. In its first stages it had been for police purposes, and at most sporadic in its manifestations. In its second, it had an inter-State organization. The third period might perhaps be considered as a result rather than a stage. The mismanagement of municipal and county funds and public institutions, the insecurity of women if not whole neighborhoods against brutal negroes, had caused the rise of the Ku Klux and White Camelia, and as these conditions continued the need of remedy became all the more acute with time. If general organization was prohibited and often impracticable, neighborhood understandings such as had antedated the Ku Klux were not, and bands of regulators, perhaps disguised in some other garb than the Ku Klux, continued their work. Moreover, the suppression of the secret orders, even so far as it was a fact, brought the matter all the more into public notice, and the Ku Klux influence was the more widespread. The ghost of the Ku Klux, too, went marching on, and the shibboleth of the White Camelia, the Supremacy of the White Race, became even more ingrained in the private mind and will. It was impossible to keep this feeling within the bounds fixed by law. If the negroes and their leaders resorted to stuffing the ballot box, and warnings were not sufficient, intimidation and

ballot box stuffing were resorted to on the other side. These had not been known before the war. They began with the Loyal League and to the southern mind it was necessary to fight the devil with fire.

A reaction must have come in any event, and as a matter of fact it assumed the form of the Ku Klux movement,—an Invisible Empire, secret, nebulous, working on African superstition, striking quickly, sometimes cruel and always efficient. Disbanded in form, its spirit survived, and the imitations, as always, outdid the original. No revolution is fastidious in its means, and every figure is followed by a shadow.

What, then, is the judgment of history upon the Ku Klux movement? Those who suffered from it have been loud in denunciation. The negroes dreaded it and not only corrupt men but as upright a Republican as Governor Chamberlain condemned it. On the other hand, the head of it at the beginning was Forrest, as good and able a man as the war had brought to light, and, although southern political leaders were not identified with it in public, they did not oppose, and even where they were not members they quietly endorsed and forwarded it.

On the whole it is not easy to see what other course was left to the South. Armed resistance was out of the question, for it was sure to be deemed a continuation or repetition of the rebellion just suppressed. And yet there must be some control had of the situation. The Anglo-Saxons have never emigrated to make way for another race; when they have migrated it has been only to possess the country of some other people. If force was denied, craft was inevitable. Consultation as to local affairs, even where leaders were denied public utterance, was not only natural but desirable. Although there was a large Latin element at the South, the dominant race was the Anglo-Saxon, and its practical tendency soon converted discussion into action. Secret circles and dens sprang up everywhere in answer to the need, and the rapid spread of the Ku Klux and White

Camelia movements but testified to the need of the general organization of a preëxisting movement.

Attempts at suppression modified the form, but nevertheless spread the flame. Even in Gallic Louisiana the secret White Camelia, aiming at an abstract principle, gave place to the White League with its definite political programme. Perhaps we may say this tendency was universal. Secret organization ceased to exist about 1872, as the whites began to recover possession of the different States, but in the States yet to be redeemed the inspiration survived. It ceased to have a central head, it ceased to have a secret ritual, but the basis of the movement, the supremacy of the white race, had been deeply graven in the mind and heart and will of white people throughout the South. On the one side it may have degenerated into violence, sometimes excusable, often indefensible; but on the other it was transmuted into a political force whose power was but beginning.

The Civil War had great results both North and South. The political reorganization at the North we will find to be much along the line of a nascent consciousness of nationality, while at the South the ultimate result, illustrated nowhere more clearly than in the later stages of the Ku Klux movement, was rather a feeling of race unity. These were at first placed in hostility to each other, but this was not a necessary situation and might not continue. The two tendencies had always existed, and for the present it seemed that they would always continue. To them was due in part the difficulty the sections had in understanding each other. The North with its few negroes could never understand why the South did not enter into the exhilaration of new-found nationalism; while the South, divided between unassimilable races, could not understand why the North should endeavor to force the two into unity. It is true that the North itself was made up of different races, but races which could amalgamate. At the South, however, the more the attempt was made to fuse the African and the Caucasian in one body politic, the stronger became

the hope on the part of the African and the determination on the part of the Caucasian that his race would dominate the fusion. In the South, too, were different races of men. There were the British of Virginia, the different British of Carolina, with whom were mingled a Huguenot element, perhaps a different strain yet in Georgia, and in Florida were at least Latin traditions. Behind these colonists in the mountain regions to the northwest, were the Scotch-Irish, making up not only the upland counties of the Atlantic States, but new commonwealths on the Ohio and Tennessee. A further division could be found in Mississippi, Arkansas and Alabama, formed from the surplus of those older States, while in Louisiana and Texas the basis was Latin, although the superstructure might gradually become American. Nevertheless all these colonizing elements, when confronted now with similar conditions, realized what they called a race unity, although it was more strictly a quasi-national fusion. As regards the Union it was sectional, but in a sense it was the growth of a southern nationality. Mr. Gladstone noted that in some respects the South constituted a different people from the North. The color line was now drawn and to this was subordinated every other interest, every other feeling.

The issue had become what was called the race question for all the whites were regarded at last as one. Theoretical and practical politics became concentrated upon the one absorbing issue, the supremacy of the whites. The shibboleth of the White Camelia, the foundation of the Ku Klux, had passed from secret organization to a defined political platform. Time was to tell whether in all the States, as already in some of the more fortunate, the Caucasian was to regain permanent control; but however the future should answer that question, the realization of the issue and the ability to meet it were due in large part to what in its earlier stages was known as the Ku Klux Movement.

CHAPTER XVII

RECONSTRUCTION IN THE CHURCHES

HERETOFORE we have looked at the secular side of the reorganization of the South after the Civil War,—the political, social and economic features of the time. It might be thought that this would embrace everything, that at least religion would be untouched, if not indeed prove a means of reunion. But religion is more, or less, than one's love of God and man. It embraces forms of worship, church government and beliefs, which may harden into creeds, but receive ever-varying applications with new surroundings. All faiths agree that purity and goodness mark the religious life, but even Christians have fought and persecuted each other over forms and government as well as over beliefs. In America few differences arise as to worship and polity, but the application of beliefs and practice to a moral question, which also was an economic one, preceded the political struggle, and indeed we may find outlasted it. To understand the religious conditions at the close of the war we must look far earlier in the century.

Slavery was the universal touchstone before the Civil War. It divided old political parties by a sectional line, and, strange as it may be, it had the same effect upon the churches, which at first would seem to concern themselves only with spiritual affairs. We might go further and say that religion was the cause of the political division; for there was throughout America, despite denominational lines,

a real Christian unity which antedated the growth of political unity. The Colonization Society, which founded Liberia, was perhaps a political rather than a religious body, but it was favored by the churches, who long worked and prayed for it as a solution of the question of the negro's future. If at the North the sinfulness of slavery was uncompromisingly preached, at least it was at first regarded as a national sin, as well as a national danger. But colonization was generally realized to be an inadequate solution, because at best too slow, and industrial growth and educational development gave rise in New England to a class who could echo the contentions of Sharp and Wilberforce abroad. The agitation over the moral, or, what was the same thing, the religious side of slavery, beginning from New England, the home of ethical discussion, was the cause of the division which finally broke up the Union. It was unfortunate, but it was perhaps unavoidable, that the most violent attacks upon slavery came from the East, where the institution had died out because of climatic reasons. The result was an awakening antagonism in the South, for there it was felt that slavery was neither understood nor appreciated by its critics; that incidental evils were looked at rather than the general improvement which had resulted to the blacks. If on the one side there was the criticism, so easy and so natural, of other people's affairs, so on the other came the disposition to defend existing institutions which concerned one's own pocket, and an indisposition to discuss the principles involved.

Before the Civil War the principal denominations were the Baptists, Methodists, Presbyterians, and Congregationalists, and the Episcopalians, although in some portions of the South, as, for instance, Louisiana, the Catholics predominated. Each had its own local and general organization, with assemblies annually or at other intervals for the oversight of the church. At first there was no distinction or even discussion as to slavery, but gradually this ghost would not down and it required wisdom to prevent marring

of fraternal relations. Among the Methodists the question came up whether slaveholders should be officers, among the Presbyterians and Baptists whether they should be missionaries.

All denominations favored and cultivated religion among the negroes. The typical planter cared for the spiritual health of his slaves as he did their bodily welfare, and white pastors ministered to the servants, in town or country, as regularly as to the masters. In town the galleries were reserved for the negroes, and in the country the same church building might be used at different times by whites and blacks. Often there were negro preachers, ministering under the supervision of white authorities. There were white missionaries who gave their lives to the salvation of the blacks even in the rice fields of Carolina, and some blacks were sent as missionaries abroad, notably to Africa. It is true that there were exceptions to this kindly treatment, but they were exceptions, and public opinion was gradually inducing spiritual improvement of the subject race. Even education was encouraged in some places until the rise of abolitionism aroused fears of insurrection and caused a reaction.

At the North the course of development was somewhat different. The negro is as a rule an emotional and affectionate creature, and some sides of religion have always appealed to him. He is naturally musical and with some mental cultivation has transformed this feature into rhythmical expression. One of the earliest of the negroes pointed out by abolitionists as an instance of what the race could accomplish was Phillis Wheatley, brought as a child from Africa and educated at Boston. She became a poetess of some note, especially on religious themes. With others later the taste for numbers has sometimes shown itself in a musical prose, occasionally of great beauty. Neither the Presbyterians nor Episcopalians were to contain many negro members, but two of the best-known negroes of the earlier part of the nineteenth century were ministers of these

churches. J. W. C. Pennington, the first colored Presbyterian minister in New York, was a fugitive slave from Maryland. He was of pure African blood and lived at different places in the North. Of even higher attainments, perhaps, was Alexander Crummell, at one time one of the four episcopally ordained colored clergymen in the United States. He met with prejudice in attaining education at the North, and had the clearness of vision to detect the great weakness of his race, the lack of moral character. He gave himself to trying to remedy this and after discouragements was admitted to the Episcopal ministry. His work failed in New England, and he declined to enter the diocese of Pennsylvania because denied a seat in the church councils, but finally obtained a charge in New York. He was at Oxford for a while and then sought the west coast of Africa; but, somewhat as Phillis Wheatley rejoiced that she had been torn away from that continent as a slave in order to enjoy the blessings of America, Crummell sought the United States again, and there he lived and there he died. But it was not among the Presbyterians or Episcopalians, despite the strength of these two men, that the strongest appeal was to be made to the negroes in America. It was among the Methodists and Baptists that we find their largest membership.

As free negroes increased and slaves decreased in number, there grew up a desire on the part of the negroes for separation from the white churches. This came about naturally and almost unperceived, and among the Methodists by 1796 practically a new denomination was founded under the name of the African Methodist Episcopal Zion Church. This began in New York and soon a number of congregations were formed. The separating tendency led to the formation at Philadelphia in 1816 of another church differing mainly in name, the African Methodist Episcopal Church. Each went its way, grew and multiplied throughout the North, claiming finally thousands of adherents, with bishops, clergy and ecclesiastical organization complete.

The churches had little or no membership at the South, for the slaves were not permitted to form organizations outside of the jurisdiction of their masters. The southern negroes absorbed the Christian influences about them, but everywhere, and particularly in the outlying portions of the country, many African superstitions survived, much as the spread of Christianity in the early centuries took up with it Roman customs and beliefs. Medicine and theology were hardly severed, and conjuring on the one hand was not distinguishable from Voodoo practice on the other.

The discussion of the white Methodists over slavery culminated at the General Conference of 1844, held in New York, when it was deemed best in view of all the circumstances to divide the church, and a Plan of Separation was worked out. Satisfactory arrangements were made for division of property, but unfortunately a change in sentiment caused litigation over this subject. The first Southern General Conference was organized at Petersburg, Virginia, in May, 1846, and thenceforward the two bodies pursued their separate courses. It is true the Northern General Conference in 1848 declared the Plan of Separation null and void, but the only result of this was friction between the two branches of the church. The Southern Conference established a publishing house at Nashville, missions abroad and among the negroes at home, and grew in all departments of work. By 1860 the membership was over five hundred thousand whites, two hundred thousand negroes, and forty-one hundred Indians.

It is perhaps uncertain which of the three evangelical denominations was the pioneer in the South, but there is no doubt that the Baptists were early in the field and active in building up churches. Their stronghold for a long time was in the country districts rather than in the towns, and their democratic form of organization, each congregation being almost independent, gave them an adaptability to circumstances perhaps superior to the others. They were at all times one of the strongest if not the strongest

denomination in the South, and shared equally with their brethren in the North the general growth and activity of the church at home and abroad.

From an early date they exhibited great interest in the negroes, and had missions not only to the slaves in America but in Africa itself. Some of the home missionaries were white men, who gave their hearts and sometimes their lives, to this service wherever duty called. Others, again, were negroes converted by Baptist preachers, of whom an instance was Andrew Liele, who sailed from Charleston with a British regiment and founded colored missions in Jamaica. Another was Lott Cary, who preached on the west coast of Africa and was honorably connected with the early history of Liberia. Not infrequently in the towns at home there were separate congregations ministered to sometimes by white, and sometimes even by negro pastors, as at Richmond, Mobile, and Charleston.

The spirit of abolition in the North, however, led with the Baptists as with the Methodists to a division in the church at large, and in 1845 there was organized the Southern Baptist Convention, which became a distinct religious force in the history of America.

It was perhaps among the Presbyterians, however, that the sectional cleavage was sharpest. The Southern members had always been active and prominent, for their church was in some respects of independent origin from the Northern. It was the southern Rice who in 1831 electrified the Assembly by resolutions that the Presbyterian Church was a missionary society whose object was the conversion of the world, and no men stood higher just prior to the Civil War than B. M. Palmer and J. H. Thornwell. By 1861 there were in the South twelve synods, with a membership of almost one hundred thousand belonging to the Old School, besides other branches of the denomination. Special care and tact had kept the slavery issue subordinate, although it was becoming increasingly insistent. Thus there was much comment upon the fact that John Leighton Wilson, of

South Carolina, the useful missionary to the western coast of Africa, was a slaveholder. He voluntarily manumitted such of his slaves as would accept freedom and sent them to Liberia; but some refused to leave their old home. He was afterward a member of the Board of Foreign Missions, and in every respect a consecrated Christian.

When the assembly of 1861 met May 16th at Philadelphia, after the secession of several of the Southern States, patriotism, which always accompanies religion, swelled in every heart. In some the feeling related to the Union; in others, however, to their States. When the venerable Dr. Spring of the Brick Church proposed a committee to inquire into the expediency of expressing devotion to the Union, it was voted down; but a few days later were adopted even stronger resolutions. The protest of Dr. Hodge and others was filed, but the church had entered upon a life of political action. The establishment of the Confederate government and the drawing of hostile lines caused the southern presbyteries to form at Augusta, December 4, 1861, a Confederate General Assembly, when Dr. B. M. Palmer preached a notable sermon and was elected moderator. The new church professed to seek a more spiritual organization, which should act through committees rather than boards, and, despite threatening surroundings, entered upon missions among the Indians and the colored population. Possibly the most notable action was the adoption of the noble Address to the churches of Jesus Christ throughout the Earth, prepared by J. H. Thornwell. This paper declared that the church "planted itself upon the word of God and utterly refused to make slaveholding a sin or non-slaveholding a term of communion." As to the negroes it said, "We feel that the souls of our slaves are a solemn trust and we shall strive to present them faultless before the presence of God. . . . Slavery to them has certainly been overruled for the greatest good." The instrument was solemnly signed like the old Scotch League and Covenant, and the Southern church entered upon her mission.

Other denominations did not suffer so much as these three from the division over slavery. Thus, the Catholics, on account of having a common head in a foreign country, were better able to maintain a neutral attitude, for their church has, on account of its ramifications, long been used to adjusting itself to international complications, and even the Civil War did not sever it except as to the communication of its parts. Somewhat the same thing was true of the Episcopal Church because of the independence of the dioceses, and in the regular councils the places of the southern members were merely left vacant for the time. The Cumberland Presbyterian Church, on the other hand, remained intact for a different reason. This organization, in some respects semi-Arminian in belief but Presbyterian in polity, was the offspring of the great southwestern revival in the first part of the century, and its headquarters had always remained in Tennessee and Kentucky. As these were soon occupied by Northern arms but were Southern in sentiment, the church suffered greatly, but it was able to maintain its organic integrity. Before the Civil War it had twenty thousand negro members, usually under the ministry of white pastors, although in some cases there were negro preachers and separate meetings.

War is generally a school for vice, and to some extent the American Civil War was no exception; and yet there was a religious side which is little known that distinguishes this conflict from all others in modern history. A great revival had during the years immediately preceding the outbreak swept over the whole Union, quickening spiritual life and determination North and South. One effect at the North was the foundation of the Fulton Street prayer meeting, and it turned to practical work in the Sanitary Commission and Christian Commission upon the opening of hostilities. Perhaps one secret of the influence of Lincoln and his great war secretary lay in their reverent dependence upon Providence. The innate piety of Lincoln is well known, but he had little patience with denominational

differences; and when a New York paper gave Stanton the credit of organizing victory, the secretary rather indignantly repudiated the idea as atheistic, and, his old Puritan ancestry cropping out, ascribed victory to the Lord. At the North the attack on Fort Sumter revealed the national feeling, which was ultimately to remould the Federal government, and during the war the opposition to slavery, which had earlier been abolitionist and political, gradually permeated the whole church and made the conflict a crusade for the freedom of the slaves.

In the South the religious sentiment assumed a no less striking phase. Where there had been political division before, the call of President Lincoln for troops to restore the Union drove other States over and the whole South was united from the Potomac to the Rio Grande in an enthusiasm for the defense of home. Whatever might have been the differences as to the right of secession, there was little as to the right of revolution, and none at all as to the duty of self-defense. Southern pulpits had been more conservative than Northern in dealing with political and economic questions, but the union of patriotism and religion in the conflict that was now regarded as a defensive war was no less marked at the South than crusading zeal at the North.

The tendency was fully reflected in the leaders. Almost alone among State papers the inaugural address of President Davis closed with a prayer, and often afterwards in messages and documents he devoutly expressed dependence upon God. He would give utterance to thanksgiving after victory, or in defeat would fully join in the resolutions of Congress for days of humiliation, fasting and prayer. General Lee was Episcopal himself, but recognized no religious differences in the army. An announcement of a successful attack would be prefaced by thanks to the "Giver of all Victory," and reverses would but intensify his piety. So as to encourage religious worship, he suspended all Sunday duties in the army except inspection, and in public orders

commanded the erection of chapels. He would willingly discuss the religious situation with a chaplain, attend a soldiers' prayer meeting, or join Jackson at church, carrying into the army the simple life and faith which distinguished him both before and after the war.

Even more striking was Stonewall Jackson, Presbyterian deacon and college professor. Nothing interested him more than the Sunday-school which he conducted among the negroes. A letter after his first success on the field made no reference to the victory, but contained money for expenses of the school. He was not a fluent speaker, and leading in prayer meeting had been as painful to him as to his hearers; but with his ideas of duty, he overcame the defect while at Lexington and literally prayed without ceasing. After a council of war he would adjourn the meeting and lay the matter before God. He would lead soldiers' prayer meetings, be an usher at camp preaching, and, if there was a lack of colporters, would himself distribute tracts among his army. General Ewell was converted by seeing what influence prayer had upon his chief, for Jackson had long seasons of solitary prayer. As he walked through the woods he would commune with God, and was much relieved to find the Scriptures did not require one's eyes to be closed; for in that situation trees and stumps interfered with his devotions. He was a thorough Puritan in his belief in an overruling Providence.

Nor did these men stand alone. D. H. Hill, Kirby Smith and John B. Gordon were not only earnest Christians themselves, but forwarded the interests of religion in every way they could, and the deaths of Pegram and J. E. B. Stuart merit a sacred lyric. General Joe Johnston encouraged religious services, and his successor Hood was confirmed in the army despite a wound which prevented his kneeling during the ceremony. Bragg ascribed the victory at Chickamauga to Divine Providence, as Forrest did his successes, and the untutored reverence of Forrest ultimately made of him a devout and influential Christian.

Jackson's corps was perhaps better supplied with chaplains than the others, but in course of time appeals to the home churches brought many chaplains and missionaries to the front. Hoge, Broadus and Palmer often left their own churches for temporary service in the army, and McFerrin, J. William Jones, Tichenor, Renfroe and others from March, 1863, organized the chaplains' work into one of great religious importance. There came to be some two hundred chaplains, and toward the end of the war the Presbyterians alone had one hundred and thirty chaplains and missionaries in the field. Whenever troops went into permanent camp, they built chapels, and on other occasions temporary arbors. Colportage became what it never had been before, and the distribution of Bibles, tracts and religious papers reached great proportions and did much good. Not only were there circulated such standard tracts as Alleyne's *Alarm* and Baxter's *Call to the Unconverted*, but new ones were written which were helpful. Thus a *Mother's Parting Words to her Soldier Boy* became well known and loved, and Confederate hymns were widely sung. The work in the East was supervised by A. E. Dickinson, who sometimes had under him one hundred colporters. It included the distribution not only of the regular religious papers, but of special publications such as the monthly *Soldier's Visitor*, issued by the Presbyterians, the Methodist *Soldier's Paper* of Richmond, and the *Army and Navy Herald* of Macon. Of the regular papers, the *Christian Index* of Georgia, Baptist, was one of the favorites.

The circulation of the Scriptures was carried on by all religious teachers. The demand was great and the difficulty was to secure Bibles. There was a Confederate Bible printed in 1861 by the Southwestern Publication Co. at Nashville, but military operations soon made Nashville unavailable. The Confederate Bible Society sought aid from the British and Foreign Bible Society, and not without success, for a loan of three thousand pounds sterling without interest was arranged, although many of the books

furnished failed to run the blockade. Religious literature was included in the ban of intercourse between the belligerent sections, but this was sometimes obviated. Thus the American Bible Society on one occasion supplied twenty thousand Testaments and sent them through the lines to the Southern Baptists. At another time Governor Vance was instrumental in securing through this organization one hundred thousand Bibles and Testaments for North Carolina troops, and the society also sent fifty thousand more for use in the Southwest. The modest Lee was gratified at being able to secure for distribution several dozen prayer books in exchange for the one which he had used, and there are pathetic stories of the gathering up of the Scriptures in the home circles and sending them for use in the army.

History of the religious work runs parallel with the military movements. Home influences lasted for a while, but the battle of Bull Run demoralized everyone, soldiers and civilians; for it created the impression that the southerners were invincible, and religious teachers complained that the feeling of dependence upon God was lost. The evils of camp life increased. Card-playing, gambling, and all army vices gradually became more prevalent, and Yancey exclaimed in Congress that drinking was the curse not only of the army but of the country. The disasters of 1862, which on the other side led to the beginning of civil reconstruction in Lincoln's appointment of military governors, brought a religious change at the South. In the East this became most marked in 1863 about Fredericksburg even before Hooker passed over to fight that memorable battle, and was perhaps most striking at first among Barksdale's Mississippians, of whom five hundred were converted. It continued through the battle of Chancellorsville and upon the wounding of Stonewall Jackson it is said that the whole army was praying for him,—which affected him deeply. The revival survived him, accompanied the troops through the Gettysburg campaign, and culminated in the camp upon the Rapidan in August, 1863. Forty chapels were built

and the call for preachers brought response far and wide. The opposing army recognized the movement, if they were not even affected by it, and many were the times on the Rapidan and elsewhere when the Baptist form of immersion was practised in safety and silence under the guns of the enemy.

It might be said indeed that the revival, whether in the East or in the West, never ceased. It was shown on the field of Chickamauga, in the winter quarters at Dalton, in prayer meetings above the clouds on Missionary Ridge, as well as in the caves at Vicksburg. In far Arkansas the chaplains were able to constitute an Army Church, and formulated a simple evangelical creed, to which all denominations subscribed; for the crisis which fused secular interests obviated religious differences as well. The signal for service would be a drum tap or the raising of a familiar hymn, and earnest chaplains would preach in the rain or cold. Not infrequently services were held in the dark, where faces could be but dimly distinguished, sometimes under the bursting shells, nor was the benediction always pronounced when worshippers were wounded. Preaching had most effect immediately before battle and just afterwards. Even the forty miles of entrenchments about Petersburg held sixty chapels and never was religious earnestness more manifest than at the last.

The prayers made before the charge of Imboden's troops and the thanks returned after the victory by Jackson kneeling before his troops indicated the spirit which it is said made the southern armies more nearly churches than had ever been known before. Perhaps no more practical result of the feeling could be shown than when the troops, receiving eleven dollars a month in Confederate money, resolved to fast one day in the week so as to send their rations to the suffering poor at Richmond. The revival spirit was taken by captured Confederates to northern prisons, and Johnson's Island and other places witnessed outpourings of religion. All told it was estimated that one hundred and

fifty thousand soldiers were converted, besides the great awakening and strengthening of church members whose interest had been nominal. At first the interest was mainly in the army, and not infrequently we read of troops praying for revival in the churches at home. Ultimately the movement extended to these churches, and after the conflict was ended it was found that not only were the army conversions lasting, but the most active church workers were often those who had returned from the war. The earnestness which had fought for home and country was carried into a restoration of these churches. Revivals in the fall of 1865 affected the whole South, and were but the army influence turned to new fields.

Such is a glimpse into the strange history of war religion, and on the other hand the church machinery was not idle. If the Southern Presbyterian Church, for example, took high spiritual ground at the outbreak of hostilities, its very zeal led it to patriotic declarations which were almost as political as those on the other side. In the narrative of the state of religion for 1862 we find the statement: "All the Presbyterian Narratives, without exception, mention the fact that their congregations have evinced the most cordial sympathy with the people of the Confederate States in their efforts to maintain their cherished rights and institutions against the despotic power which is attempting to crush them. Deeply convinced that this struggle is not alone for civil rights and property and home, but also for religion, for the church, for the gospel, for existence itself, the churches in our connection have freely contributed to its prosecution of their substance, their prayers, and above all of their members, and the beloved youths of their congregations. They have parted without a murmur with those who constitute the hope of the church, and have bidden them go forth to the support of this great and sacred cause, with their benedictions and with their supplications for their protection and success. The Assembly desires to record, with its solemn approval, this fact of the unanimity of our

people in supporting a contest to which religion as well as patriotism now summons the citizens of this country, and to implore for them the blessing of God in the course they are now pursuing." The next year we are told: "During the period which has elapsed since the last annual session of this body, our unhappy country has been the theatre of a war unexampled, perhaps, in the scope of its operations, of the vast numbers engaged, and of the pitiless barbarity with which it has been conducted on the part of our invaders. The blood of our brethren, our fathers, and our children, unjustly and untimely slain, cries to Heaven. A considerable portion of our territory is in possession of the enemy, and all communication with the churches embraced in those districts must for the time be suspended. We look forward with a cheerful confidence to a renewal of our relations to those churches, when, by the favor of God, the enemy shall have been expelled. We commend these afflicted brethren to your sympathies and your prayers. It is to us matter of devout gratitude to Almighty God that He has so often and so signally baffled the efforts of our enemies to effect our subjugation, and that He has vouchsafed to our arms victories so repeated and so wonderful."

In 1864 came declarations, some of which were to be later much commented on. "Our enemies have evinced a settled determination to prosecute their enterprises of guilt and horror in the face of all the disastrous consequences which must ensue from this insane attempt to subjugate and destroy us. . . . The wonderful work of grace in our armies presents the strongest encouragement to the praying people at home, and has placed the seal of the divine approbation upon our righteous cause. . . . The reports of all our Presbyteries indicate an increasing interest in the spiritual welfare of our colored population. The long continued agitations of our adversaries have wrought within us a deeper conviction of the divine appointment of domestic servitude, and have led to clearer comprehensions of the duties we owe to the African race. We hesitate not to affirm

that it is the peculiar mission of the Southern Church to conserve the institution of slavery, and to make it a blessing both to master and slave. We could not, if we would, yield up these four millions of immortal beings to the dictates of fanaticism and the menace of military power. We distinctly recognize the inscrutable Power which brought this benighted people into our midst, and we shall feel that we have not discharged our solemn trust until we have used every effort to bring them under the saving influence of the gospel of Christ."

This was the action of but one denomination, but it was representative, and in spirit if not words could be paralleled in other churches.

On the other hand the earnestness which equipped northern armies and sent them upon what proved ultimately a conquering crusade expressed its religious patriotism quite as strongly. The Northern Presbyterian General Assembly of 1862 declared that public order had "been wickedly superseded by rebellion, anarchy, and violence, in the whole Southern portion of the Union"; that all this had "been brought to pass in a disloyal and traitorous attempt to overthrow the National Government by military force, and to divide the nation contrary to the wishes of the immense majority of the people of the nation, and without satisfactory evidence that the majority of the people in whom the local sovereignty resided ever . . . approved the fraud and violence by which this horrible treason" had "achieved whatever success it" had had; that "this whole treason, rebellion, anarchy, fraud, and violence" was "utterly contrary to the dictates of natural religion and morality, and plainly condemned by the revealed will of God"; that it was "the clear and solemn duty of the National Government to preserve, at whatever cost, the national union and constitution, to crush force by force"; and that it was "the bounden duty of the people who" composed "this great nation, each one in his several place and degree, to uphold the Federal Government, and every State government."

In 1864 the Stanley-Matthews paper declared the political occurrences of the time to be providential revelations of the will of God that every vestige of slavery should be effaced; that the motive for the longer continuance of slavery had been taken away by the war of the slaveholding States in order to found an empire upon the corner-stone of slavery; expressing gratitude to God for overruling the wickedness and calamities of the rebellion to work out the deliverance of the country from the evil and guilt of slavery; and recommending all in their communion "to labor earnestly and unweariedly for this glorious consummation to which human justice and Christian love combine to pledge them."

The gradual advance of the northern armies, with the resulting occupation of southern territory, brought religious as well as political questions. President Lincoln was able to organize civil governments more or less successfully, but not only did the churches of the South decline to recognize northern ecclesiastical authority, but even those of the Border States, which had adopted the border attempt at neutrality, found it necessary to identify themselves more and more with the southern. The northern churches determined upon a process of assimilation, expressed at the time as one of "disintegration and absorption", on the idea that the southern churches were utterly disorganized and could not now maintain an independent existence. Thus, when an Ohio presbytery asked the Assembly to drop from the roll members in the so-called Confederate States, the Assembly "Resolved, 1. That this Assembly regards the perpetuation of negro slavery as a great crime, both against our National Government and against God; and the secession of those Presbyteries and Synods from the Presbyterian Church, under such circumstances and for such reasons, as unwarranted, schismatical, and unconstitutional. 2. That the General Assembly does not intend to abandon the territory in which these churches are found, or to compromise the rights of any of the church courts, or ministers, ruling elders, and private

members belonging to them, who are loyal to the government of the United States and to the Presbyterian Church. On the contrary, this General Assembly will recognize such loyal persons as constituting the churches, Presbyteries, and Synods in all the bounds of the schism, and will use earnest endeavors to restore and revive all such church courts. 3. The Assembly hereby declares that it will recognize as the church the members of any church within the bound of the schism who are loyal to the government of the United States of America, and whose views are in harmony with the doctrines of the Confession of Faith and with the several testimonies of the Presbyterian Church on the subject of domestic slavery." Then followed provisions as to constituting loyal Presbyteries and Synods.

All of the evangelical denominations at the North adopted this policy of regarding the South as a missionary field, and attempted the reconstruction of the southern churches on much the same lines as Congress attempted political reconstruction. Loyalty was to be a test of membership or at least of recognition, and the claim was enforced to examine applicants "on all subjects which seriously affect the peace, purity and unity of the church." Thus, any minister applying for admission from any southern presbytery must be examined as to whether he had in any way countenanced the rebellion or holds that negro slavery is a divine institution. This had not only the unfortunate effect of irritating the South, but of leading to unseemly quarrels as to church property. In Louisville a body recognized as loyal was successful in securing property which had up to that time been held by others.

The *New York Nation* in July, 1866, said that the North looked upon the defeat of the South as retribution and expected southerners to do the same. This journal did not think it would do good to tell them, however, that "we will forgive them if they will confess that they are criminals, offer to pray with them, preach with them, and labor with them over their hideous sins." Much might be effected,

however, by missionary efforts among the negroes, and to this work a larger amount of northern energy was directed.

In the Methodist division of the South into missionary districts with the purpose of disintegrating and absorbing the native churches, one A. S. Lakin, of New York and Illinois, became a power among the blacks in Alabama, although this power was not always exerted for their welfare. He succeeded in organizing an Alabama Conference of almost ninety-five hundred members, of whom the few whites were loyalists of the mountain districts, while negroes constituted the bulk of the organization. Lakin seems to have done all he could to sow dissension. He encouraged negroes to seek entrance into white congregations and control church property. His test of membership was loyalty and no secessionist could join. By 1871 he claimed fifteen thousand members, mainly white; but there is no doubt this was an exaggeration.

The African churches of the North also entered actively into the evangelization of the negroes. While in 1864 the African Methodist Zion Church had thirteen thousand three hundred and forty members, by 1876 it was to claim two hundred and twenty-five thousand, predominantly in the South. Similar work was accomplished by the African Methodist Episcopal Church, and by the Baptists, and ultimately the negro Baptists in the South exceeded the white in membership.

During the war the North had attempted not only abolition but uplifting of the negroes when set free, for the religious side of the Federal advance had been served by a number of churches and societies. Amongst others were the Pittsburg Freedmen's Aid Commission, Cleveland Freedmen's Union Commission, American Freedmen's Union Commission, Methodist Freedmen's Aid Society, Northwestern Aid Society, all designed to give material or spiritual assistance. These gave way to stricter forms of organization, of which probably the best known was the American Missionary Association, which dated its origin to

1846, although its impulse came from the freeing of the negroes on the slaver *Amistad* at New London in 1839. September 17, 1861, this association established for the contrabands about Fortress Monroe the first day school,—the origin of the useful Hampton Institute and in sight, as was pointed out, of where the first slave ship landed in America. With this association, as not infrequent in church work generally, education and religious teaching went hand in hand. It had teachers, often cultivated northern women, at Norfolk, Newbern, Roanoke Island, Beaufort, Hilton Head and other places, and gradually extended its activity into all the southern States. In 1865 a fund of two hundred and fifty thousand dollars was raised by the Congregationalists for work among the freedmen and the association was declared the organ to carry it on. Its means increased from year to year, and its influence became widespread, so that while in 1865 its teachers were three hundred and twenty, by 1870 they numbered five hundred and thirty-three. It founded higher institutions of learning like Fiske University in Tennessee, Talladega in Alabama, Tougaloo University in Mississippi, Straight University in Louisiana, Tillotson College in Texas, and Piedmont College in Georgia, besides graded common and normal schools throughout the South. Following up the policy of the Federal government in granting bodies of land for agricultural and mechanical schools, Talladega College was in 1867 the first school to introduce industrial training into its regular course, and Hampton Institute followed the next year. Besides its own schools, the American Missionary Association did much in the way of providing teachers for the schools of the Freedmen's Bureau and later for the public schools of Reconstruction days. The predominant feature of this education, however, was classical. Negroes, whose future would probably be limited to manual labor, attempted higher mathematics, Latin and Greek, with the frequent result of spoiling them for what they could do without fitting them for anything else.

Churches were founded in connection with educational institutions and were in their turn intended as models of true Christian life. They ultimately numbered hundreds and conferences were formed in a number of the southern States. The theory of the association, in education and religion, was to go where the negroes were most numerous. Thus within a radius of one hundred miles from Tougaloo University, which was established in 1869, there were five hundred thousand negroes. The teachers and ministers were at first exclusively white and have remained largely so, and it would be a mistake to think of this valuable association as confining its labors to the negroes. From an early date by schools and churches it occupied strategic points in the mountain regions from West Virginia down to Georgia and Alabama, and also operated among Indians and Chinese.

We have traced the attempt by President Lincoln at civil restoration during the Civil War and that of President Johnson immediately afterward. Of course, these did not cover the religious field, for this was not to be affected by the success of armed forces, and must now be considered.

The Episcopalians had little difficulty in effecting reunion, for even during the war the roll of all the States, beginning with Alabama, was called at the meeting of the general conventions. There were two questions to be settled, however. One grew out of the fact that Bishop Polk, of Tennessee, had exchanged the cassock for the Confederate uniform; but the death of this distinguished general on the field of battle at least removed it from practical consideration. The matter of Bishop Wilmer, of Alabama, was more troublesome. He had been ordained during the war as a member of the Confederate church; but this action was recognized and the general convention even went so far as to sustain him in his contest with the military authorities when they sought to enforce prayer for the president of the United States. Such wise policy brought the southern members back to the convention with little difficulty. Somewhat the same may be said of the Catholic Church, although

in Father Ryan and others the South had had as devoted advocates and helpers as in any denomination. The Cumberland Presbyterians, as we noted, were rather a Border Church, and in this way held their own field after the war as well as during it. It is not necessary to discuss smaller bodies. They had either been absorbed in the larger during the war period, or like the Jews were too loosely organized to have much difficulty in the premises.

If church and state had remained united in America as in Europe there might well have been an effort to establish in the South, as the British did in Ireland, a national church, without regard to the wish of the people. It would have assumed a somewhat different form, on account of the less centralized nature of American institutions, but the enthusiasm of the North at the time was intense enough to seek reconstruction in the church as well as in the state. The separation of the two, however, rendered this impossible, although the antagonisms of the day infected even the religious sphere to such an extent as to render impracticable a voluntary reunion. The plan of the northern churches for disintegration and absorption of the southern was met by an opposing determination. The armies were dispersed, but the soldiers who had composed them, many of them still aflame from revivals which had carried them through many battles, came home to carry out reorganization along the old local lines. The northern idea that the southern churches were disabled was incorrect. It was rather a case of transformation of energy; the men who had been active in war now came home to be active in the church.

We find this spirit everywhere. In the Methodist Church the bishops met at Columbus, Georgia, for conference and issued a pastoral letter which declared: "The Methodist Episcopal Church, South, still lived, and in all its policy and principles was unchanged. Neither disintegration nor absorption was for a moment to be thought of, all rumors to the contrary notwithstanding. Whatever banner had fallen or been furled, that of Southern Methodism

was still unfurled; whatever cause had been lost, that of Southern Methodism survived." This led to the general conference of 1866 at New Orleans, one of the most notable in the history of the church. Five of the six bishops were there, and it was marked by the admission of the Baltimore conference, which felt itself unable to remain under northern jurisdiction. The membership had fallen to a little over five hundred thousand, for Lincoln's words were as true of the South as of the North when he said that "The Methodist Church sent more soldiers to the field, more nurses to the hospital and more prayers to Heaven than any other." Signs of fraternity with the North, however, were not lacking, for a dispatch from the New York East Conference at Brooklyn presented Christian salutations, and the invitation was accepted to set apart a day for prayer for the peace and unity of the country and its churches. Administration was advanced by practically abolishing class meeting and extending the pastoral term, as well as adopting lay representation in the conferences. The publishing house, taken and used by the Federals during the war, was partially set on its feet again. New bishops were selected, among them McTyeire who was to be so influential in the future. Recognizing the change in the condition of the negroes, the conference recommended day schools and authorized colored presiding elders, districts and conferences, although the negroes remaining in communion with the southern church were less than fifty thousand out of over two hundred thousand before the war; for many had gone to the two African churches or the northern Methodists. By 1870 several colored annual conferences had been formed and then two negro bishops were set apart for the Colored Methodist Episcopal Church.

The African churches affected to look down upon this new church, which, unlike them, resolutely kept out of politics, and as a result the Colored Methodists were branded as the Democratic Church. It met with great encouragement from the Methodist Episcopal Church, South, which

turned over to it all property heretofore held for the use of the colored membership, estimated at as high a figure as a million dollars. The white church continued to aid the colored in every way it could, both as a body and individually, through gifts for church work and schools.

Among the Baptists also the condition was exacted by the northern church of a profession of loyalty to the Union, and the policy inaugurated during the war of seeking to get possession of Southern church property was for some time continued. This was resented, but on the other hand the Baptist publication business was cheerfully turned over to the northern Baptist Publication Society and much assistance was received from that organization and the American Bible Society.

Even from 1865 the Baptists acknowledged with regret the tendency of the negroes to withdraw and form organizations of their own, but steps were taken toward recognizing the new churches when formed. This, however, was desirable in the Baptist church perhaps even more than in other denominations, because in some congregations the negroes outnumbered the white membership and gave trouble by seeking to control the administration. It was also easier, because there were already a number of negro churches, and the fact that each Baptist congregation is almost independent attracted many negroes because of freedom from supervision. The whites contributed liberally in aid of the negro churches when organized, but gradually the influence of northern missionaries and self-called preachers alienated the races as in other denominations. Thus one of the active negro preachers, named Trammell, came to preach that Christ did not die for the southern, but only for the northern people. The feeling of the time was such that for similar utterances and because a white woman teacher lived at his house Trammell finally met his death at the hands of the Ku Klux.

Order gradually evolved, however, even during chaotic conditions of reconstruction. Even from 1864 began the

organization of colored colleges with the Roger Williams University at Nashville, and succeeding years saw others also which became influential. The negroes of North Carolina were in 1866 the first to organize a Baptist State convention, and next year this was done also in Alabama and Virginia, and afterward in other States. In 1866 was celebrated in Richmond the twenty-sixth anniversary of the Colored Missionary Convention, when the several Baptist conventions were consolidated into one. Whether this would last might be questioned, but for the time it had its uses.

The Methodists and Baptists were the two largest denominations in the South, being almost equal in number. Presbyterians were perhaps only half as large as either, but their insistence upon an educated ministry and their strict creed and forms have always given them an influence out of proportion to the size of their membership. In the Civil War they had more army workers in proportion to numbers than any other church, and generally the sturdy and active Scotch-Irish have been the backbone of this denomination.

During the conflict the Southern church absorbed several smaller Presbyterian bodies and the same process continued after the surrender. In 1867 the presbytery of Patapsco, in Maryland, joined the Southern church, and an even more significant addition was that of the synod of Kentucky in 1869. This body had remained in the northern assembly and attempted to remain semi-neutral in the war, somewhat as the State had attempted to be neutral, and with the somewhat similar result of finding itself controlled by the North. To the northern mind the death grapple over the Union did not admit of neutrality in either church or state, and the general assembly dealt severely with Kentucky's efforts in that direction. The different utterances of the northern assembly as to slavery and politics were distasteful to the Kentuckians, and in 1865 the synod was condemned by the assembly for taking exception to the assembly's paper on slavery and because the synod had "wholly failed to make any deliverance calculated to sustain and encourage our

government in its efforts to suppress a wanton and wicked rebellion." The assembly ordered all lower church courts to make it a condition precedent to admission of southern applicants that these confess as sinful all opinions before held touching States rights, rebellion, and slavery, not in harmony with the political utterances of the assembly. In consequence of this the Louisville presbytery adopted a Declaration and Testimony, written by a pastor laboring in Louisville, of northern origin and never accused of favoring secession. This protested against mingling politics with religion, for the church as such, it said, could know no difference between "Jew and gentile, Rebel and Yankee." The synod endorsed the presbytery and excepted to the assembly's order to appoint no one as missionary unless loyal to the general government. The assembly of 1866 thereupon excluded commissioners from Louisville and declared the Declaration and Testimony slanderous and schismatical. The result was a split in the synod. The minority withdrew and were recognized by the next assembly as the true synod. The result was negotiation of the old body with the southern church, which resulted finally in union.

Somewhat the same thing occurred in 1874 in regard to the synod of Missouri. The Assembly's ipso facto order had declared the dissolution of such presbyteries and synods as allowed a seat to the signers of the Declaration and Testimony, and the majority of the synod of Missouri refused to act upon this direction. The result here also was union with the Southern church.

The Southern Presbyterian Church, far from yielding to a policy of disintegration and absorption, even from 1865 took forward movements in the line of sustentation and missions. B. M. Palmer, J. H. Thornwell and J. L. Wilson and others were not leaders who would permit work to go backward, nor were the men who had distinguished themselves in so many military campaigns such as to be dismayed even by overthrow of civil institutions and accusations of schism.

The colored membership had not been so large even in proportion as in the other denominations, but the church lent its energies also to the solution of the negro question. In response to overtures from Virginia and Mississippi, the Southern Assembly in 1866 earnestly enjoined all officers and members to use diligence and discreet efforts for the spiritual benefit of the colored race and to seek to retain them in connection with the church, selecting the more pious and intelligent among them for the official positions, where necessary. There was reluctance to leave the negroes to a separate religious development, and except in the Cumberland branch there was not organized a negro Presbyterian church. The Presbyterian church was among the first to establish a separate theological institution for the race, conducted by white teachers.

The chief sufferer in the religious reorganization, as in the civil, was the negro. He had been inspired to demand separate churches, and the result of his obtaining them was to throw him upon his own resources. Separation in the case of the whites caused each branch to work out its own destiny in ways best suited to its conditions; but the negro had no past upon which to draw, except Africa and its superstitions, modified by the missionary work of slavery times. The result was not only a tendency to further subdivision, but the growth of religious machinery rather than of religion itself, and reversion to the ancient and perhaps primitive view of religion as a system of worship rather than an ethical force. Matthew Arnold has defined religion as morality touched with emotion. He may strangely enough have missed the central force of religion, its inspiration from on high; but his description touches its practical side. We may say for the negro that religion is the converse, that it is rather emotion, only slightly touched with morality. Separation from white influence may have been a natural evolution, but it brought about an isolation of a child race, an unmoral if not immoral race, from those to whom they had looked for guidance in the past and who would have

been able and willing to devote themselves to their uplifting in the future.

The frequent games and dances of the ante-bellum period had been encouraged by the planters, but with the close of the Civil War and beginning of separate churches this happy, joyous life gradually ceased and gave place to religious service and exhortation, in which singing, rhythmic swaying of the body and the like had full play, for the emotions of the negro race found full expression in demonstrative services. Their musical instinct showed itself in singing even where the hymns had to be lined out, and the stentorian voices of the worshippers could be heard afar. It may be questioned whether the responsive shouting of the Methodists or the immersion of the Baptists appealed to them more strongly, but each was apt to degenerate into emotional states and ecstatic trances which had no spiritual tendency.

The docility and imitativeness which made them adopt the white man's differences were not the characteristics which promised active development. The formal and emotional side appealed to the negro too strongly to permit of a rounded growth of the spiritual content. If the century was not to see churches independent of missionaries in Japan, with all its culture and acuteness, could they fairly be expected among the ignorant Africans in America at the close of the war?

In the church as in the State the negro was the cause of strife, and as he was gradually eliminated the relations of the whites of the two sections became easier of adjustment. Not but that four years of separation had caused difficulties and wounded churchmen, for the most spiritual were still human. If the churches on each side of Mason and Dixon's line were made up of people who recognized a common Saviour, they were also made up of those who had suffered the loss of property and kindred during the war and in the South the evils of reconstruction afterwards. Religious as they might be, it was impossible not to carry their civil feeling into church relations. The Republican party at the

North, intelligent and aggressive, was made up of Methodists, Baptists, Presbyterians and others, and religion perhaps lent the greater earnestness to their political efforts. So at the South the church members were also active in politics. The influence of the past was if anything stronger in the defeated section, and religion was not always of the kind to turn the other cheek. Not a few instances existed of practical excommunication of scalawags as well as social ostracism of northern immigrants.

The net result of church reorganization after the war was, so far as relates to the whites, that the missionary zeal of the North and the resentment of the South at first not only caused the old divisions to be maintained, but in the homecoming of soldiers and new sufferings of reconstruction the tendency was strengthened. The churches were less reconstructed than continued as sectional bodies. Even when in time the past could be less regarded and the feeling of fraternity increased, not a few at the South had learned to love their own denominations and others to regard them as at least convenient organizations for home work. The Methodists, North and South, gradually approximated, especially after the foundation, in 1874, of Vanderbilt University at Nashville, the gift of a northern man with southern affinities; the Presbyterians agreed upon a basis of church work about the same time, while the elastic Baptist organizations have harmonized even more fully. In proportion as new issues and interests arose, in the church as in the State, came a forgetting of those things behind, a pressing forward to the prize ahead.

CHAPTER XVIII

THE BORDER STATES

RECONSTRUCTION, properly speaking, was of the whole country, and the further one gets from the misgovernment of the extreme South, due to creation of a factious and ignorant electorate, the better he can appreciate the theory of the movement. Even before one crosses Mason and Dixon's Line, however, he will find a modification of the process of reorganization. There were some States south of the Ohio which presented different stadia from those we have found in Alabama, Louisiana, or even Virginia. The same steps in reorganization, marked by the three constitutional amendments abolishing slavery, creating a national citizenship and regulating the State electorate, were attempted everywhere; but we shall find the result varying away from the coast and the curious spectacle presented of a State on the Ohio not even abolishing slavery.

American political development has the peculiarity of pursuing a double course, for it is bi-constitutional. As the functions of government are divided between the State and the Union, changes may be made in State constitutions without affecting the Federal Constitution, although additions of power in the Federal constitution will necessarily *pro tanto* override that of the State. A Federal amendment may be adopted by a vote of the requisite number of States and become effective in Kentucky, for example, even despite the refusal of Kentucky to ratify. Such a result we have not

found in the South since the time of the governments as restored by President Johnson. Military reconstruction secured a bastard electorate which would echo orders from Washington and make any organic change, in local or Federal constitution, that radical leaders might desire. The transmontane South was more as the coastal districts had been under the governments of 1866, and in coming to what were called the Border States one approaches a scene of discord indeed, but where there was at least no Federal military, and where discussion was free if it was also violent. It is as if passing from the later to the earlier history of the Italian commonwealths.

On the border land between civilizations we often find people who partake of the quality of each. Generally they have much in common, and, as they are modified by contact, themselves in turn tend to modify the differences of their countries. Sometimes the races on the border are mutually hostile, but as a rule they come to understand each other and have a quasi-homogeneity of their own. In the debatable land between England and Scotland we read mostly of the border wars, and on the English side at least were fortified districts, called marches, under military chieftains whose duty it was to keep a lookout toward the other country. In America also was a border land between the civilizations of the North and South, the free soil and the slave States; but it went back of the time of the division into two contrasting civilizations and had peculiarities of its own.

On the east there was Maryland, between old Virginia and the Quaker colony of Pennsylvania, growing to importance with a development all its own. Its early staple was tobacco, and this and other reasons fixed slavery in its history; and yet the growth of Baltimore into a great commercial centre and the establishment of the Federal capital within its bounds contributed to give Maryland a cosmopolitan nature not found further South. The State stretched in unsettled spaces far to the west, where it was bounded by

transmontane Virginia. This region had a separate growth from tide-water Virginia, and was due in part to the great stream of Scotch-Irish settlers, deflected from Pennsylvania southward along the eastern slopes of the Alleghanies. Transmontane Virginia received its main population at a later date, but this immigration not only developed the backwoods of the Atlantic States, but spread through the Cumberland Gap and along the headwaters of the Tennessee until it founded beyond the mountains the new and energetic commonwealths of Kentucky and Tennessee. Kentucky in particular was a new creation. Immigrants by the Cumberland Gap were greatly reinforced by others down the Ohio River, and the new State, admitted in 1792, was a pioneer of not less marked character than her own Daniel Boone. A curious and interesting peculiarity of the American pioneer was his restless, wandering spirit, and, as Kentucky filled up, many of her older settlers and their like pressed onward to found new western commonwealths. Ohio, which became a State in 1802, owes much to this element as well as to its separate contact with Pennsylvania, and Illinois and Missouri, States only from 1818 and 1821, became what they were, despite the early French settlements, largely by this sub-immigration from Kentucky and Tennessee. Indiana had been admitted in 1816 and could tell a similar story, and the same might be said as to the origin of Alabama, Mississippi and Louisiana, dating from the second decade, and also of Arkansas, although much younger. No small part of their population came across the country or down the Mississippi from Kentucky and particularly from Tennessee. Other influences moulded the later history of the States north of the Ohio, but their lower counties had much in common with Kentucky. The Hoosier and other dialects were but variations of a stream of western life when the Ohio and the Mississippi were common highways of immigration. In a sense, therefore, Kentucky was not a "dark and bloody ground" in the history of the white Americans as she had been with the aborigines. She did indeed become a

border land, but it was a border land between commonwealths which in a large measure looked up to her as a nursing mother.

During the Civil War this western district played a great part on both sides. We may say that the development of the upper West conquered the South, but the southern portion of the West, Kentucky and Missouri, had on account of the ties of the past attempted to remain in touch with both sides. It was a new experiment, that of neutrality in the Civil War, and Stephen A. Douglas was right when he said there was room only for opposing armies and not for neutrals. But no one could tell what would be the course of the conflict, and it was a noble, if futile, attempt by Kentucky, herself mother of States, to endeavor to restrain the belligerents. The result was far otherwise than she desired, for she became herself the centre of war, and yet in a different way from that in which the other border States were the seat of war. Kentucky and Maryland did not secede and they were not in a strict sense the seat of civil strife; their fields were the scenes of conflict between outsiders, while Missouri, Tennessee and West Virginia were at least at the beginning the prize of contending armies recruited in the main from their own citizens. It would not be strange, therefore, if in the reconstruction which followed the war the dramas played should vary in the several border States. All had southern tendencies, although West Virginia perhaps least of all, and the control which the Federal government had found it necessary to exercise had been severe. This might strengthen their tendencies; but at least it had not gone to the extent of including them in the military reconstruction which afflicted the Lower South.

At the beginning of the Civil War, Missouri, Kentucky and Maryland were subjects of special solicitude on the part of the Federal and Confederate authorities, for they were slave States. Lincoln's slowness in regard to emancipation was largely due to dread of alienating them. Kentucky sought to assume a neutral attitude, and in Missouri

there was a real civil war, while in Maryland the president was successful in preventing anything further than passive sympathy with the Confederates, although there were many Maryland and Missouri soldiers in each army. Nominally the forms of government were preserved in all three States, but practically the national administration saw to it that there was no disloyalty on the part of the public authorities.

During the progress of the war two more were added to the list of border States. In 1863 West Virginia was created out of the Old Dominion and admitted into the Union, and Tennessee was so far occupied by the Federals as to see its government reorganized under a military governor appointed by President Lincoln. At the close of the civil struggle, therefore, the five States of Missouri, Kentucky, Tennessee, West Virginia, and Maryland could fairly be called border commonwealths, and in point of fact were exempted from the more drastic of the reconstruction proceedings.

The Unionists were in complete control at the close of the war and so it was not strange that Missouri promptly adopted the Thirteenth Amendment in February, 1865. After full debates in convention, in which was pointed out the fact that slavery kept Missouri behind Illinois and other free States, the State also amended her own constitution to the same effect. West Virginia in 1863, and Maryland in 1864, adopted constitutions calling for emancipation, and were among the first States to ratify the Thirteenth Amendment, while Kentucky not only rejected the Federal amendment but refused to amend her own constitution. Indeed, Kentucky never did abolish slavery by any act of her own until 1890. On the other hand as Tennessee had seceded and now sought to have her delegation admitted to Congress, she easily realized that it would not be recognized until the Thirteenth Amendment was adopted. Governor Brownlow accordingly brought the legislature together in extra session, and by questionable methods enough members were arrested and forced to be present to secure ratification in

April, 1865. Thus we find that the Thirteenth Amendment was adopted by Missouri, West Virginia, Maryland and Tennessee, and that these States also amended their own constitutions so as to abolish slavery. On the other hand, Kentucky rejected the amendment and refused to change her own organic law.

Taking the border commonwealths from east to west, we have first Maryland, which in early days had been a border land between the northern and southern colonies. In course of time there were fewer negroes in Maryland than further South, but her citizens were among the earliest to attempt to solve the problem by recolonization in Africa. There could be no question of Maryland's love of the Union, and her legislators had early in the war resolved that they had not the power to secede and did not intend to do so. The State which could give the *Star Spangled Banner* to the world could only be brought to give also the passionate song *My Maryland* from a feeling that "the despot's heel was on her shore."

Maryland opposed the war against the South and during the passage of northern troops there resulted at Baltimore a riot in which four soldiers were killed and three times as many citizens slain by the troops. The mayor and other officials were imprisoned and the State was practically under military occupation throughout the war. There were Maryland troops in the Federal army, but many also abandoned their old homes for the Confederate service.

The legislature of 1864 was chosen under military supervision and in the election on a constitutional convention no disloyal person could vote. The convention when assembled abolished slavery and declared "paramount allegiance" to be due to the constitution and government of the United States. This new constitution, however, was adopted only by a small majority, consisting mainly of soldiers outside of the State.

The history of Maryland during Reconstruction is much simpler than that of other Border States. Of the ninety-five

thousand people entitled to vote at the close of the war, in one way or another sixty thousand were disfranchised, and it is estimated that the voters who actually ruled the State amounted to one-fifth of those who under ordinary circumstances would be electors. This condition of affairs naturally excited great discontent and public opinion was soon so pronounced as to cause relaxation of the laws. When in May, 1867, another constitutional convention met at Annapolis, the fundamental law was made more conservative. The franchise was restored to ex-Confederates, and as a result, when a legislature came to be chosen in 1868 there was practically no opposition party. Every member of each house was a Democrat.

Although Maryland had adopted the Thirteenth the next year she rejected the Fourteenth Amendment, passing elaborate resolutions arguing that it was *ex post facto*, and in 1871 she also rejected the Fifteenth Amendment. This reaction in one of the original thirteen States, the one most subject to nationalizing influences, from the presence of the Federal capital within her bounds, was striking and significant of the trend of public opinion when released from military supervision.

In the next border State to the west, however, we find an entirely different situation. West Virginia, created in the midst of the Civil War, was from the beginning governed by her own citizens, and continuously represented, of course by Republicans, in both houses of Congress. The first constitution was on account of absence of the Confederate citizens adopted by a minority vote. It abolished slavery, and there was little objection to the adoption of the Thirteenth Amendment in February, 1865.

Even as far back as 1863 the legislature, composed of Unionists, enacted a law as to officers in the following language: "Every person elected or appointed to any office of trust, civil or military, shall, before proceeding to exercise the authority or discharge the duties of the same, take the following oath: I, A. B., do solemnly swear that I will

support the Constitution of the United States and the Constitution of this State; that I have voluntarily given no aid or comfort to persons engaged in armed hostility thereto, by countenancing, counseling or encouraging them in the same; that I have not sought, accepted, nor attempted to exercise the functions of any office whatever, under any authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power or Constitution within the United States hostile or inimical thereto; and that I take this obligation freely without any mental reservation or purpose of evasion."

This was the first appearance of the test oath in West Virginia. It was improved on when the war was approaching its close and the danger was apprehended that ex-Confederates, who were in the majority in the southern counties, might gain control of the government. The same legislature which had adopted the Thirteenth Amendment in February, 1865, amended the election law by providing that every voter challenged must produce an affidavit showing that he had not borne arms, as provided in the test oath for officers. This was going beyond the constitution, and so a constitutional amendment was proposed to validate such measures and ultimately adopted. It has been seen to be usual in Reconstruction further South to place almost unlimited power in the hands of the governor, from the just apprehension that a minority could only govern by force vested in some central authority. A Republican legislature having been elected by about 7,000 majority, this plan was followed in West Virginia. Registration of voters was required, for which a board of loyal citizens was to be appointed by the governor in each county, they in turn to appoint in each township a registrar, who placed on the voting roll all loyal citizens. Power of removal was given to prevent any dereliction, and the whole machinery was at the will of the executive.

Radical legislation was not confined to voters, a test oath was required of lawyers and clients also. In 1865 it was

enacted that no one could bring suit without taking the test oath, but the most oppressive legislation was that as to "war trespass suits," providing that any one could be sued for acts committed in the course of war. Many suits were brought and Confederates were harassed with judgments for what was done in the ordinary progress of the war. The Supreme Court of Appeals of West Virginia approved all the legislation of reconstruction times. An instance, although probably a glaring instance, of the kind of officials which the times produced was a circuit judge appointed in 1865 by the governor. He was guilty of almost every corruption possible, and at last in 1870 was impeached and resigned to escape judgment.

The legislature passed a number of restrictive laws. Jurors were required to be registered voters, school teachers must take the test oath, and an even more stringent registration law was enacted, giving the board of registrars the right to strike out the name of any one whom they did not think entitled to vote. It was this legislature which on January 16, 1866, adopted the Fourteenth Amendment.

At the State election in the fall of 1868 the Republican vote was shown to have increased about three thousand and the Democratic by six thousand. The Fifteenth Amendment was adopted the next spring, but there came some amelioration of the laws. Lawyers were exempted from the test oath, and the qualification of voters was restored to that of the constitution of 1863, except that the limitation of the franchise to whites was stricken out. This was the beginning of the end so far as the political parties were concerned, for in 1870 the Democratic or Conservative party carried the State by twenty-eight thousand, against upward of twenty-six thousand.

In 1872 a new constitution was adopted, which, amongst other things, released soldiers from civil and criminal liability for any act in accordance with the usages of civilized warfare and discharged all judgments previously rendered on the subject. An act passed under this constitution came

up before the United States Supreme Court in *Freeland vs. Williams*, 131 U. S. 405, and was sustained. Thus was removed one of the most odious and far-reaching effects of Reconstruction.

None of these Border States presents a more unique study than West Virginia's next door neighbor, Kentucky. Statistics seem to show that it produced, particularly in the blue grass country, the finest physical type of manhood on the American continent, if not in the world. It had been settled largely from Virginia, and, cut off from the ocean by the mountains and communicating with the external world only by the long route of the Ohio and its tributaries, Kentucky with its agricultural riches grew up to be a singularly independent and self-reliant community. While, as in other southern States, slavery prevailed and the county system of government prevented the healthiest educational and political development, circumstances diffused leadership to a higher degree than elsewhere, for slaveholding did not exist to such an extent as to cause domination by a few families. At the outbreak of the war perhaps most of the leaders were secessionists, and many went over to the Confederacy; but on the other hand many of the people at large were Unionists. The tact to be exercised by the leaders of the two movements might have all to do with the way the pendulum would swing. Lincoln was born in Kentucky and the State was always an object of solicitude to him. Her greatest man of an earlier day was Clay, the apostle of compromise, and his influence was still paramount. The violence of the new leaders met no full answer in the mass of the people, whose instinctive endeavor was to preserve the anomalous and perhaps impossible position of neutrality. This was not fully worked out, however, and finally the State furnished over forty thousand men to the Confederacy and twice as many to the Union army. This State was the field on which many battles were fought early and late, but the people were all the more confirmed in their bias to the old cause.

Toward the close of the war, however, Kentucky had some ground to repent her inaction. War and neutrality are inconsistent, and the Federal commanders were not always men of tact. To their mind who was not for them was against them. General Burbridge toward the very end of the civil struggle arrested and sent within the Confederate lines Lieutenant Governor Jacob and Colonel Wolford, men of undoubted Union feeling but who resented the arbitrariness of the military. A strong protest was made at Washington, and ultimately the banished men returned and Burbridge was removed.

It so happened, however, that there were other causes of complaint. Kentucky had remained a loyal State, and, because she had not accepted promptly Lincoln's offer of compensation, remuneration for slaves was denied forever. The loss was not as great as in other southern States, but it was a direct loss of probably a million dollars, due to some extent to the enforced ratification of the Thirteenth Amendment by reconstructed States, reacting upon a loyal community. Nor was this all. The Freedmen's Bureau extended its operations to Kentucky also, and the people were subjected not only to the general annoyance of military rule, retained as against them even when *habeas corpus* was restored elsewhere, but also to the vexations of provost marshals and the bureau interference with the readjustment of wages.

Kentucky stands in marked contrast with Tennessee in her action as to restoration of political rights to the Confederates, and this may be due to the proportions of Unionists and Confederates in the respective States. In Tennessee the Confederates were in the large majority, and so when the Unionists at the close of the war found themselves in control of the government, they did all they could to retain their uncertain hold. On the other hand, in Kentucky the Unionists were in the large majority and had nothing to fear from the return of their brethren to the civil walks of life. During the war there had been, of course, drastic

legislation against treason, amounting to expatriation of those who shared the fortunes of the Confederacy, and even to infliction of imprisonment upon those returning home; but when after the close of hostilities the Federal troops undertook to enforce this legislation, there was an unexpected result.

There came a revolution in public feeling. The commonwealth forgave her erring children and all determined to go forward as a reunited people. The Conservatives won by a little over one hundred votes at the election in 1865, and this without the participation of the expatriated vote. Two Conservatives and four Radicals were returned to Congress, but the legislature was safely Conservative. Such was the harvest from the work of Burbridge and his fellows.

At the ensuing session of the legislature in the fall and winter the old war legislation was swept away and citizenship restored to all people of Kentucky. Democrats and Republicans united in a new party and ruled the State from this time on. One result was that the two newly proposed amendments to the Federal Constitution were rejected in succession. The mother of western States had tried to mediate between the sections, and instead found herself ruled by the stronger. When she was free again she cast in her lot with the weaker, whom she had sought to protect.

We have indicated that the political development was different in the neighbor to the south, with whom Kentucky's history had so much in common. Tennessee was essentially a southern State. It seceded, and, not only had representatives in both branches of the Confederate Congress, but many soldiers in the Confederate army. It is true that it was not quite a unit. The eastern counties in the mountainous district where the commonwealth had originated contained many Union men, and these in some places were in the majority. On the other hand the more fertile and thickly settled counties of middle and western Tennessee, where slavery was in greater vogue, were almost unanimously in favor of the southern cause. For this reason there would

have been difficulty in reconstruction of the State on any one plan. When we add to this that Tennessee was one of the great battle grounds of the war, that Fort Donelson, Murfreesboro, Nashville, Franklin and other fields were famous in the advance and retreat of both armies, it can be understood how the people suffered and were resentful. At the same time the fact that the Confederate forces were finally driven out had caused wholesale desertions and the return of many who felt that their State was abandoned.

East Tennessee used her loyalty for all it was worth. At the beginning of the war, and subsequently until the result was evident, that section planned to be made into an independent State, somewhat as the analogous district of West Virginia, and only abandoned this to attempt to rule the whole commonwealth. It was in Tennessee that President Lincoln first tried his plan of reconstruction by a military governor in the person of Andrew Johnson, of East Tennessee, but the fortunes of the plan varied with the success of the Union arms. Convention followed convention in bewildering succession, elections held within the Federal or Confederate lines, symptomatic of how far the times were out of joint.

With the Nashville convention in the fall of 1864 affairs began to promise a more settled form, although the electoral vote of Tennessee was finally thrown out by Congress and for the time being Hood's invasion upset all plans again. A mass meeting turned into a convention in January, 1865, became the controlling feature of State history. Under this, by adding to the voting strength of 1861 increments representing the vote against secession, East Tennessee, although the smaller section, succeeded in fixing its control over the whole State. Faction ran high, and to the political mind of that day there was nothing improper in having a minority rule the State, provided that minority was Unionist. There seemed to be no conception of the possibility that the Confederates had thought they were struggling to maintain the old constitutions, State and Federal,

and that, when their construction had been overruled, they could give up and heartily return to help build up the State again. It seemed necessary to the Union men in Tennessee, as well as elsewhere, that only Union men should guide the destinies of the State. Therefore stringent amendments to the constitution were carried and Parson Brownlow was elected governor.

A more bitter partisan never occupied office. Brownlow urged the passage of proscriptive laws of the nature common in that day. The elective franchise was restricted to those of unconditional Union sentiments from the outbreak of the war, and all who had aided the rebellion were disfranchised for fifteen years. Doubtful persons were refused the franchise for five years, after which it might be conferred on convincing testimony. Attempts were made to inflict a fine for wearing a rebel uniform, to deprive rebel ministers of their privileges, and, in order to secure loyal posterity, to force every woman, before being permitted to marry, to take an oath of allegiance. In East Tennessee 1,800 cases were in the courts at one time against Confederate soldiers for acts committed during the war.

Other proscriptive regulations were passed, such as the creation of a metropolitan police, and the methods used at the extra session of 1866 for arresting members and securing the passage of the Fourteenth Amendment, even over the speaker's rulings as to quorum, would at any other time be deemed disgraceful. At congressional elections the vote decreased as one went from the east to the west, thus showing the effect of franchise legislation, and conversely the influence of East Tennessee. Brownlow's procedure became more and more radical. In the dispute between the president and Congress the State authorities regarded Johnson, of Tennessee, as a renegade and pledged themselves to support any action that might be adopted against him.

How the Brownlow tyranny brought about the Ku Klux reaction, however, has been already told, and the return of Andrew Johnson,—the great Tertium Quid,—added

picturesqueness if not elegance to State politics until his death. In 1870 the Fifteenth Amendment was rejected, for the Conservative reaction had at last come, and the government became permanently Democratic.

In crossing the Mississippi River to the Missouri side we pass to a border State exhibiting different features from any heretofore studied. Missouri, like Illinois, was originally settled by the French and in St. Louis preserved more than Illinois hints of the early history. But it was the American pioneers from Kentucky and elsewhere east who subdued the wild fields, built the cities, and made Missouri the leading western commonwealth. The original settlements had been on the Mississippi, but the population had according to American custom gradually crept up the water courses and afterwards spread over the intervening country. Slaveholders had settled the country, and in 1821 the State came into the Union under the Missouri Compromise as a slave State. The Mississippi and Missouri Rivers became the avenue for transport of agricultural products as in earlier times they had been for the products of the chase. The commonwealth remained mainly agricultural, although in St. Louis and some other places there was developing an active urban life.

Before the war Thomas H. Benton was long the most prominent figure, and much of his influence was inherited by his son-in-law, John C. Frémont, the brilliant pioneer who became an anti-slavery leader. During the war there were many Union men among the Democrats, not a few of whom like Blair were in the Federal army, while other Missourians were in the Confederate. Grant and Sherman were quite at home in St. Louis, and ultimately the State became the centre of real civil war. Although in the fight for Missouri the State fell finally to the Federals, party feeling remained as high as anywhere on the border.

A new constitution was adopted in 1864 by what from the prominence of one of its members was called the Drake Convention. The Confederates were absent or silenced, and

the constitution was proscriptive to a degree hardly equalled elsewhere even in those troubled times. Under it no one who had in any degree aided the Confederate cause could hold office, vote, teach, be manager of a corporation, or hold property for any religious organization. The Missouri constitution was the most thorough-going of all Reconstruction documents, for the test oath prescribed covered every treasonable act and tendency.

The General Assembly was to enact laws for the registration of voters, but no one could register or vote without taking the drastic test oath, and another section declared that no one should practise law, be a clergyman of any denomination, solemnize marriages, or even teach, without taking the oath. The purpose of such discrimination was to keep the government and all means of influence in the hands of Union men; but not a few eminent Union men declined to take the oath, although they could have done so. Frank P. Blair, a leader of the Unionists and a prominent Federal general, went in his uniform before the registrars and demanded to be registered without taking the oath. He was rejected, and instituted suit for damages. The practical result of the policy was to keep the government in the hands of the minority, for, in order to be certain that the instrument would be adopted, the act submitting it to popular vote declared that no one could vote unless he had the qualifications which were to be prescribed in the instrument not yet ratified. This was adopting the constitution in advance, and yet the majority at the election June, 1865, was only eighteen hundred.

The validity of these requirements was tested by John A. Cummings, a Catholic priest. He was indicted for performing the duties of his office without taking the oath, and the matter was finally taken to the Supreme Court of the United States. In this famous case, decided in 1867 by Justice Field, the test oath was declared to be in violation of the provisions of the Federal Constitution which prohibited bills of attainder and *ex post facto* laws. However, the general

assembly had already been elected under the constitution and in 1868 it proceeded to frame a registration law more stringent still. It was under such circumstances that the proposed Fourteenth Amendment came up for ratification. As its disfranchising clause was less severe than that of the Missouri constitution, there could be no doubt of its adoption, and on January 28th the legislature ratified the amendment.

This body was perhaps more famous for its legislation. During the growth of the young State, Missouri, like other commonwealths, had taken stock or otherwise aided a number of corporations in the construction of railways, and there was outstanding at this time almost twenty-four millions of State bonds, almost half being in favor of the Missouri and Pacific Railroad and its branches. The contract provided that the company should pay interest on the bonds, and on default the State could take possession of the road. After default an act was accordingly passed to sell the main Pacific Road for the sum of five millions of dollars. There seems to be no doubt that the act was secured by bribery, and this was only the beginning of a reign of corruption. Other roads were successively sold and the total amount realized was a little over six millions of dollars, which meant a loss to the State of seventeen and a half millions, without counting almost as much more in interest. The contention was made at the time that it was necessary to sell the property in order to release the State and that no more could be realized from the property. In the case of the Iron Mountain road, however, the purchasers immediately resold their investment at an advance and one of the commissioners resigned because the bid accepted for two roads was not the best offered. The result of the whole matter was that taxes had to be raised.

As in the case of other States, the general debt was not the worst result of misrule. In six years the county and municipal indebtedness amounted to over fifteen million dollars, largely for railroads which were never built. There

could be no more doubt in Missouri than in Alabama that much of this indebtedness was fraudulent, due to bribery and misuse of funds by officials. The facts were often brought to the attention of the courts, State and Federal, but, even where the courts themselves were above reproach, the fact that the bonds were negotiable instruments and held by innocent purchasers fixed them upon the suffering public. It was difficult to say what could be done by communities under such circumstances. Obligations here as further South threatened to drive some localities into bankruptcy. All that was left was the right of revolution, and in some instances insurrections occurred and guilty officials were murdered.

Such a situation was the inevitable result of minority rule. Having obtained office on the plea of keeping the government in the hands of the friends of the Union, the minority claimed that it was a necessity that they remain in office. Ultimately, if not at the beginning, the hatred of rebellion merged into love of office and almost every practice was adopted to secure office. The majority, fairly representing the bulk of property in the State, were kept away from the polls.

In the long run minority government cannot prevail in America. Apart from its injustice, it always degenerates into ring rule, and a large part even of the minority, aided by voters coming of age, sooner or later revolt against such conditions. This is fortunate, for, if it were not true, the excluded majority would ultimately rise in arms, and of this we have already seen instances. In Missouri, however, that proved not to be necessary. In 1872 came a political revolution, which swept the Radicals from office, restored to power the majority, and in giving prominence to such men as B. Gratz Brown and versatile Carl Schurz assumed national importance; for then was born the Liberal Republican movement.

Thus the reconstruction history of the Border States presents as much variety as that of the more southern

commonwealths. The features, it is true, were not the same. The negroes were less numerous and thus the race question did not assume so acute a phase. The military element was also eliminated, for after the close of the Civil War the troops were soon withdrawn and matters left to a peaceful development, somewhat as had been designed by Johnson in his attempt to restore the southern governments. Of the five which we class as border States, Maryland and Kentucky were the oldest and had on account of ties with their brethren to the north as well as to the south attempted to maintain a kind of neutrality, with the result of falling the sooner and more absolutely under military control. On the one side it seemed a tame surrender, and on the other a breach of faith by the Federal government, and at all events had the result of creating lasting dissatisfaction. Missouri and Tennessee took a more active part in the struggle. Missouri was prevented from actual secession, although her government acted as if the step had been taken, while Tennessee went out of the Union and enlisted heart and soul on the southern side. Missouri suffered from positive civil war, her citizens fighting each other, and in Tennessee, while this was to some extent true, there was except in the eastern mountains little enlisting on the Union side. Both of these States enjoyed a kind of autonomy from the close of hostilities, and were left embittered not so much by the action of the Federal authorities as by civil dissension within their own bounds. West Virginia, on the other hand, although predominantly Unionist, nevertheless gradually adopted the southern side of the reconstruction controversy. All five within a short time after the close of the Civil War, whether or not they had ratified the three amendments to the Federal Constitution, went through a political revolution and found themselves in the Democratic column. They did not illustrate the proverb that nothing succeeds like success, for on the removal of the slavery issue they identified themselves heartily with the cause of the unsuccessful States. For this some good reason must exist.

If the danger of negro rule was largely eliminated, and there was no ground for civil reaction against the military, nevertheless misrule showed itself not less in the Border States than in the Lower South. As the political parties were more evenly balanced, the civil features of the situation were the more intensified. There was the negative element of proscription of a large number of the most active and influential citizens in the exclusion of the ex-Confederates from the franchise, which had its occasion in the supposed necessity of punishing treason or at least keeping the State government for a time in the hands of the Unionists, who claimed to have preserved it. The weakness of this lay in the fact that, the question of secession being out of the way, there was little in the local government which could call for any distinctions because of differences as to national policy.

But there was, in addition to the theoretical wrong, a positive one, for the result was government by minority. This was brought about by the fact that in all of these States either the ex-Confederates were in a numerical majority, or the majority was made up of them and those of their late opponents who desired to heal all wounds and unite in building up a greater future for their commonwealths. The Radicals, as they were commonly called, did not often constitute the majority even of the Unionists, and certainly not of the State at large. Moreover, minority rule led, as everywhere else, to severe repressive measures. The executive department was strengthened, individual liberty curtailed, and too often the result was ring rule and political corruption. In the Border States as well as in the Lower South it was realized that one cannot handle pitch and not be defiled, and the only difference in the result between the upper and lower tier of States was that the border commonwealths became Democratic earlier because they had an earlier opportunity.

CHAPTER XIX

RECONSTRUCTION AT THE NORTH

It is with a feeling of relief if not of pleasure that we turn from the enforced reorganization attempted in the late insurrectionary States to the freer political atmosphere and fuller recuperation of the North. Reconstruction we have seen reason to consider as a national process, for it not only abolished the old division incident to slavery, but settled the yet older question as to whether the country was a nation or a federation of States. It was natural that for some years after the close of the Civil War politics should hinge upon questions growing out of the settlement of its issues, and that period, whether North or South, is properly known as Reconstruction.

In the study of the South the striking fact is that although the stage upon which history was enacted was diverse, and even the origins of its people so different, nevertheless the prevalence of agriculture and the effects of a peculiar system of labor gradually threw all into the same mould. And yet while it is proper to speak of the South as a quasi-unit before the war, and even more fully unified by reconstruction afterwards, it would be incorrect to speak thus of the North.

The North was many sided, made up itself of different sections, and how these came to fuse for a time and with what result is an economic and political study whose explanation lies in the past. It deserves care, for not only was the North successful in the struggle, but it reconstructed

dependents, a very different advance from that of the Anglo-Saxon of the North, but a pioneering which was as legitimate. To a large extent it was a climatic rather than a moral question. The New England soil and climate forced the cultivation of small farms, and for a long time the presence of Indians and lack of transportation favored the same result north of the Ohio, while the much greater area of the South invited sub-migration and taking up of new lands as the cheaper form of agricultural development. We find it in colonial Virginia and we find it in ante-bellum Kentucky and Georgia.

After a while the moral questions involved gave rise to the anti-slavery movement, beginning in the East and spreading westwardly. In the early days of the free soil movement, the North seemed to be at a geographical disadvantage. Between the Ohio and Lake Erie on the Pennsylvania line was a distance of only one hundred miles, and through this had to pass whatever immigration or influence were to turn the West in favor of freedom, while from this point to the Gulf was a gap of six or seven hundred miles for the advance of slavery. This difference was due to the fact that the original slave States were much more extended than the free, and perhaps aided northern immigration by concentrating it. Through the northern gap and by the Ohio River poured the population which soon created States from the Northwest Territory, spreading fan-shape from Lake Superior to the Ohio, as well as the population for a newer but more arid West beyond the Mississippi River, while on the other hand the domain of slavery ever contracted in the western movement.

The two greatest acquisitions of territory by the United States became the occasion of acute crises. At the time of the Louisiana Purchase there was little friction over slavery, the more particularly as the cession might be construed as continuing the rights of the inhabitants to hold slaves as under their former government. Louisiana was admitted as a State in 1812 and there could be no doubt, if slavery

Ireland to settle in the North and West, where preëmption laws invited immigration, and on the other hand modification of the corn and navigation laws of England invited an expansion of agricultural and shipping industries in America. The country recovered from the panic of 1837, due to the over-construction of canals, and entered heartily upon the building of railroads. The first steps perhaps were taken in the South, but the greater development was soon at the North. At the South also was expansion, but it was almost exclusively of agricultural industries. There was little immigration from abroad, and if the four million slaves, owned by three hundred and fifty thousand people, were only a third of the population, slavery was nevertheless the class of labor that dominated both economics and politics. Climatic belts produce different vegetations, and influence the occupations if not the character of man himself, and in this way it happened that the negro did not thrive in New England and the Middle States, and gravitated to the South. The politicians pressed the extension of slavery because of the peculiar nature of southern agriculture. Fertilizers were as yet not much known, and the substitute for alternation of crops was to use fields as long as they were productive and then take up new land. This was a migratory form of agriculture, and applied especially to tobacco and cotton, which were the main crops. The gradual expansion of the country toward the Southwest favored sub-migration from the Atlantic to the Gulf and lower Mississippi, and the enormous growth of cotton returns seemed to justify the process, although this absorption in agriculture tended to prevent the growth of large cities and commercial interests.

There was not aggression by immoral "slave barons," as sometimes pretended, but the gradual advance of younger and more progressive men from the half worn out fields of the Atlantic to the virgin soil of the Mississippi Valley and Texas. Cotton and tobacco required large fields and were best cultivated by gangs of negroes rather than by white men. It was the progress of the Anglo-Saxon with African

dependents, a very different advance from that of the Anglo-Saxon of the North, but a pioneering which was as legitimate. To a large extent it was a climatic rather than a moral question. The New England soil and climate forced the cultivation of small farms, and for a long time the presence of Indians and lack of transportation favored the same result north of the Ohio, while the much greater area of the South invited sub-migration and taking up of new lands as the cheaper form of agricultural development. We find it in colonial Virginia and we find it in ante-bellum Kentucky and Georgia.

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was to be recognized at all, that she should come in as a slave State. Between that and 1820, however, the policy had begun of admitting free and slave States in pairs, so as to preserve a kind of equilibrium, and with the application of Missouri the question had to be settled as to the new domain west of the Mississippi. Henry Clay, a young man of personal magnetism and growing political power, in 1820 proposed and secured the Missouri Compromise, by which that commonwealth was to be admitted as a slave State and west of it the boundary between the free soil and slave should run at $36^{\circ} 30'$. This gave relief for twenty years or more.

With the Mexican War came the acquisition of new territory, extending the Union to the Pacific Ocean. Much of this was south of the line of $36^{\circ} 30'$, and if the old compromise controlled would fall to the domain of slavery. Meantime, however, gold had been discovered in California and there came the mad rush of 1849. Immigration was probably never so rapid in the history of the world and by 1850 the coast was in condition for admission as a State. As it happened that it had been settled mainly by free soil men, it applied for admission as a free State. The South was at least strong enough to prevent admission and it seemed an opportune time for a new settlement.

Then it was that Henry Clay, now an old man returning to the Senate, felt called upon to propose a new compromise. He introduced resolutions which provided for the admission of California as a free State, and, leaving the question open as to the territory won from Mexico next east, conceded the payment of certain claims made by Texas, and secured a stricter fugitive slave law. The debate was famous not only so far as relates to the adoption of the measures themselves, but for the contact between old and new men. Webster, Clay and Calhoun! These names had been for three decades the leading ones in American history, and these men now united on a law which they deemed necessary for the preservation of the Union. They dated back

to a time when they could draw inspiration from the founders of the republic; but, although strong enough to secure the passage of the measure, they had to listen to young men who advocated new views. Webster's speech on the 7th of March had many elements of statesmanship. It pointed out that the soil of Nevada and New Mexico was such as to inhibit slavery and that there was no necessity for passing an act of Congress where the law of nature made the future certain. But when Webster advocated the new fugitive slave act, he sounded his political death knell. Nothing illustrates so clearly the change which had come in northern sentiment as the reception given this speech of the Whig leader, which ten years before or even less would have been hailed as a masterpiece of reasoning. It was denounced by Whigs and only feebly applauded by Democrats.

Listening to the debate were Salmon P. Chase and William H. Seward, fresh from the political contests in Ohio and New York, both Whigs, but tending to the view that the question of slavery was more pressing than the ties of party. The speech of Seward was a complete antithesis to that of Webster. He perhaps recognized that a fugitive slave law was constitutional, but he builded deeper than he knew when he proclaimed that if so there was a higher law than the Constitution. This was even more profound than his other apothegm, that the contest between freedom and slavery was an irrepressible conflict; and he lived to help prove both his prophecies.

The second compromise seemed to put a girdle around slavery; ultimately the institution must die out. Mason and Dixon's line between Pennsylvania and Maryland gave place to the Ohio, running southwest with an ever increasing territory to the north, and, if Missouri jutted beyond and Texas was also admitted, the Compromise line of 36° 30' now left to the south only Arkansas and Indian Territory. The practical result was to confine slavery to the southeast fourth of the Union. The enforcement of the fugitive slave act of this compromise, however, brought the

incidents of slavery home to many people in the North and West who had never sympathized with the abolitionists. As the alleged slave could not testify, cases of injustice occurred, although it may well be that in number they were overbalanced by the slaves whom the Underground Railroad enabled to escape the law and their masters.

The agitation over the moral aspect of slavery became more acute, and even literature took sides. *Uncle Tom's Cabin* came out in a magazine in 1851 and its publication in book form next year marked an epoch. The southern replies were more hot-headed than persuasive. In the South it was regarded as an intermeddling and an incentive to slave insurrection, for to the southern mind waving a torch in a powder magazine must have some other motive than giving light. Southern lawyers began to argue that the Constitution recognized the right of property in slaves and that Congress could not by compromises prevent a man from taking his property into the common territories. This carried into action brought on the bloody struggle between slaveholders and free soil men for Kansas, and the whole question of slavery seemed to be reopened.

In 1857, by the Dred Scott case, the Supreme Court declared the law to be as the southerners had contended and that the African was not and could not be made a citizen. Nevertheless the East and West became all the more pronounced in opposition to slavery and the next twenty years, with their momentous events, were to be a long commentary on Chief Justice Taney's decision.

In the same year came a panic caused by over-construction of railroads, and, although it was not so acute as that of 1837, the economic depression increased political unrest. Unification of the country by building a Pacific railroad had been urged by far-seeing statesmen, amongst others by Jefferson Davis, of Mississippi, and its route had already been surveyed, but one unfortunate result of the panic was that the construction of the railroad was deferred. State-making went on, mainly to the advantage of

the North. Minnesota was admitted in 1858, Oregon the next year, and Pennsylvania was also to be almost re-made by the finding of petroleum in 1859,—an event which in some respects balanced the uplift of the Pacific slope by the discovery of gold ten years before. Kansas had been won by the free-soil men, and, if the South was successful in keeping her out of Congress, her revenge was the John Brown expedition to Virginia.

The country gradually recuperated from the panic and by 1860 was, except in political affairs, again in a somewhat normal condition. The total population was about thirty-one million and a half, at last surpassing that of the mother country, Great Britain and Ireland. The railroad mileage was thirty-one thousand, built at a cost of over a billion dollars. The merchant marine was second only to that of Great Britain, agricultural products exceeded those of any other country, and of these five million bales of cotton made up the largest item, while manufactures had taken firm root in the East. The total wealth of the country was probably sixteen billions of dollars. Many new cities had grown up, and old and new showed wealth and comforts never before imagined. Gas-works, water-works, parks, libraries and public schools were diffused over the whole country. The arts and sciences were well advanced, nor was the intellectual development far behind.

While there was a real common basis underlying it all, America had developed from the first in three sections,—New England, the Middle States, and the South,—and the growth westward was adding the Northwest and the Pacific Coast. Each of the old sections had features of its own, and it is of surpassing interest to trace them. New England had from the beginning been more coherent than the rest, because smaller and more compact, centred about Massachusetts, and in particular Boston, in some sense a provincial capital. This somewhat recalled the old Greek federation of small states under the hegemony of a leading city, both in its political unity and in the high degree of general

culture. In this result the township system and manufactures at home and the foreign shipping interests united, and New England's educational system produced more than elsewhere that literary and cultured class which interested itself in ethical and intellectual pursuits. There naturally the abolition movement took strong hold, with its zeal for the freeing of far-away slaves whose condition was unknown except from the tales of fugitives from oppression or for restlessness' sake.

Next came the Middle States, under the lead of New York and Pennsylvania, and there we find another feature which has been known to history,—that of commercial cities. New York and Philadelphia, however, had little resemblance to Athens or Alexandria, and rather recalled mediæval towns. They were perhaps more like Hamburg and other German cities than Florence and Venice, for their principal interest was commercial rather than intellectual. If the back country was tributary to them in business, it did not always follow their lead in politics.

Across Mason and Dixon's line was the South, clinging to States' rights and yet in agriculture and its system of labor almost a unit, capable of being welded into an empire, an empire more like the Roman than the German. The South, indeed, had its East in the double civilizations of Virginia and Carolina, in a sense the parents of all southerners; its central division on the Gulf of Mexico, measurably commercial; in Kentucky, Tennessee and Arkansas its share of the West; and in Texas a coast with new possibilities even if not facing the Pacific.

The Northwest we have had occasion to deem a new departure. It was not like Greece or the mediæval cities, nor yet an empire; it was pioneer and original, and in its extension westwardly and reaction eastwardly was to establish a new type even among republics. The Pacific Coast as yet hardly counted.

These sections had different characteristics and it required a civil war to fuse them into two, which we call the North

and South. For the time being the northern were to be united against the southern, and when the stress was over all must be greatly modified. The modification, however, might be one which brought to the surface the underlying unity of interest and feeling, and might leave America a unit such as had never been realized, such as had never been even dreamed of before the war.

The East had had in the now discredited Webster an advocate of the grandeur of a common country, and it could not be forgotten how he inspired all to "keep step to the music of the Union." The commercial centres might weigh the advantages and disadvantages of war and nevertheless be influenced by the zeal of such abolitionists as Thaddeus Stevens; but after all it would be the West,—even if with a southern strain, still the child of New England, constituted of new States made to order, as it were, and without the ties of a past, imperial in extent and growing up in the protection of the Union as a whole,—that would play the decisive part in any sectional contest. The home of free labor, the West was set against any extension of the domain of slavery. A rivalry of slavery and freedom within one country was harmful enough, but to the West the breaking of the Mississippi Valley by an east and west line would be fatal. The connections with the East were many and strong, but the old historic bias and the cheapness of water transportation called for the southern route also. The river basin had in colonial times been controlled from the Gulf, and even when it went to the British it was to British who controlled the Gulf. With the Civil War, however, there came a division by a line running east and west and the patriotism of the great West and Northwest could not but be strengthened by the feeling that in the event of southern success the Missouri and upper Mississippi would practically be cut off from free navigation to the Gulf.

At the beginning of the Civil War there was a time of crystallization both North and South, although the anomaly was presented of an earlier centralization of power at the



Body of Jefferson Davis on bier. From a hitherto unpublished photograph by E. F. Blake.

Democratic, and indeed only New England, Michigan, Iowa, the Border States and far California sustained the administration.

Leading abolitionists had faltered at civil war. Greeley at the beginning wished to let the erring sisters depart in peace, and soon would have welcomed mediation from Europe. Wendell Phillips was averse to coercion, and Chase had favored recognizing the Southern Confederacy as an accomplished fact. Later, when the war was actually entered upon many of the abolitionists went to the other extreme and sought to force Lincoln's hand. Greeley in an editorial which he called the Prayer of Twenty Millions demanded that the president abandon his "deference to rebel slavery." Governor Andrew said that emancipation would fill the Massachusetts roads with volunteers, and Chase favored endorsing the order by which General Hunter sought to free the slaves in Georgia, Florida and South Carolina. To Stanton the love of the Union was a passion, and with Lincoln the Union came first. He sought to restore the Union without emancipation, but recognized fully the suggestion of General Meigs that the slaves as laborers were an efficient support to the rebellion, and at last with the reaction of 1862 determined to enlist the abolition sentiment in an active struggle for the Union. He adopted the wise suggestion to wait for a victory, and so after Antietam issued September 22, 1862, his provisional proclamation that in all districts in rebellion on the succeeding first of January slaves would be free. Another event only second in importance was the meeting of loyal governors at Altoona, Pennsylvania, also in September, to take measures for the better carrying on of the war. Seward had favored this movement and Lincoln welcomed the loyal and patriotic support offered.

All this was to prove important in the long run, but for the time being reaction against the war had swept the States. No less a man than Thomas A. Hendricks contemplated the necessity of organizing a Northwestern

confederacy. The Pacific Coast must also become separate, and this fear it was which caused the beginning at last of actual work upon the Pacific Railroad. In the East, Seymour, the new governor of New York, attempted a kind of neutrality which was somewhat different from that once undertaken by Kentucky, and was based upon his demand for "The Constitution as it is, the Union as it was." The commercial interests of New York suffered greatly and the appeal to abolition sentiment acted less strongly there than in the East and West. The term Copperhead, meaning a traitor, now came into use, especially in Indiana where Morton had to face a hostile legislature, and he was forced to the expedient, long ago tried by kings, of getting along without a legislature. He had his own sub-treasury and was helped by the president in the expense of operating the government.

Morton appreciated possibly even more than Lincoln the danger of defection in the Northwest, urged the opening of the Mississippi River as needful in itself and politically important, and somewhat to Morton's efforts were due the operations of Grant and Sherman, culminating in the next year at Vicksburg. In Iowa the conditions were different, for Grimes reported that he found the people more radical than the leaders, and this was possibly symptomatic of what might happen in a reaction.

The Emancipation Proclamation of January 1, 1863, was in some respects the turning point of the war. It ultimately inspired the Union forces by a realization that the North had embarked upon a crusade, although it was preceded by the defeat at Fredericksburg, and succeeded in May by the defeat of Chancellorsville.

The Governors' Meeting and the Emancipation Proclamation did much to awaken the North and to bring moral support from abroad; but, as Lincoln said on another occasion, "breath alone will kill no rebels." Enthusiasm was important, but it was made effective when enacted into laws. The sinews of war have been declared to be money, and to secure this two means were employed. In the first place

customs duties were increased by the Morrill tariff and other laws to an extent not dreamed of before, and the policy secured a large and continued income. In addition, under several acts of Congress bonds were issued, which even when sold at a discount produced enough to pay a good deal of the million dollars a day required by military operations. Specie payments had been suspended from the first year of the war and under early legislation the government carried on its operations by means of a national currency, called greenbacks, for whose ultimate payment the faith of the nation was pledged. These policies were important, but possibly the greatest financial legislation of all was February 25, 1863, when the genius of Salmon P. Chase, secretary of the treasury, drove out of existence the seven thousand different kinds of State money and substituted notes of national banks. These institutions were organized throughout the loyal States and not only supplied a local, and therefore elastic currency, but, as the banks secured their circulation by government bonds, provided a means for absorbing a large quantity of the national securities.

The money was needed to equip and feed the armies in the field, for which during three years men were supplied by volunteering; but the reverses of 1862 and the rise of a party of opposition in the West chilled the ardor of recruits. The strength of the Confederacy, the ability of its generals, required the supreme strength of the North, and another step toward nationalization, possibly the greatest of all, was therefore taken March 3, 1863, in the act of Congress for forced draft to supply the army. This provided for the conscription of all able-bodied male citizens of the United States and persons of foreign birth who had declared their intention to become citizens between the ages of twenty and forty-five years, with certain exceptions. The country was divided into districts under provost marshals, enrollment made, and drafting begun. The enforcement of this act created great dissatisfaction, which reached its height in the July riots at Boston and New York, and in New York

Federal troops were necessary to quell the disorders. The loyal governors were of great help in securing the proper execution of the law, although Seymour, of New York, gave it rather reluctant support, and the soldiers thus secured fought well. By the close of hostilities over a million men were in the field.

It may be doubted whether these steps would have been sufficient to carry the war to a successful conclusion but for the rise of a general of ability in the person of U. S. Grant. It is true that Meade won at Gettysburg the victory which probably made it certain that the Confederacy must recede from its high-water mark and confine itself to defense, but the operations of Grant and his assistants, Sherman and Thomas, about Vicksburg at the same time resulted in the opening of the Mississippi River and severing of the Confederacy in two. Besides the danger to the South, this probably assured the loyalty of the West, and in the elections of 1864 not only was Lincoln triumphantly reelected over McClellan, but a house of representatives was returned with a Republican majority sufficient to insure a two-thirds' vote for any measure. From this time on national feeling was not only distinct but determined. Lowell declared that public opinion advanced with greater strides than the progress of the Union armies.

After Gettysburg and Vicksburg it was a likely guess that the Union would prevail, and contemporary with the battles in the field was important law-making at the capital. Congress seemed never to falter in its belief that the Union would be restored. It legislated as if the southern States were still within the Union, and its laws fixed the national aspirations beyond the reach of reaction.

Not only was slavery abolished in the territories and in the District of Columbia, but, anticipating the final result, James M. Ashley, of Ohio, was in 1863 one of the first to urge upon the 38th Congress the adoption of a constitutional amendment abolishing slavery throughout the Union. The discussion in the two houses was long and exhaustive.

The joint resolution, following the phraseology of the Ordinance for the Northwest Territory, passed the Senate by a large majority, but failed in the House. Ashley voted against it in order to secure reconsideration, and on January 31, 1865, after the new elections, reconsideration was secured. The excitement was intense, and when the Speaker finally announced the adoption of the resolution, the unusual scene occurred of members clapping and cheering. The old cause of sectional lines and compromises and civil war was gone, so far as Congress could act. An engrossed copy was signed by the president, Speaker and many of those who voted for the measure, and the measure went to the States.

In the North and West and in the Border States every legislature, except that of New Jersey, ratified within the year 1865, the majority within one month of its proposition, and the reluctance of New Jersey was finally overcome, so that she ratified in January, 1866. At the North only Delaware and on the border Kentucky alone rejected it, and, owing to President Johnson's making it a *sine qua non* of recognition, there was except by Mississippi no rejection in the South. Secretary of State Seward was able to proclaim the adoption of the amendment on December 18, 1865.

Would there be any further hardening into permanency of the governmental functions assumed during the war? Wade had chafed at having to wait on Lincoln's "royal pleasure"; Thaddeus Stevens thought General B. F. Butler would make a better president, and even the judicial B. R. Curtis had not hesitated to call the president usurper and despot. It is true that these dictatorial powers were curtailed in the reaction against Johnson, but only to be assumed by Congress itself. The Federal armies melted back into the citizenship of the country; would national powers seized to suppress rebellion be as easily surrendered to the States again?

Citizenship was always a local matter. A man was only a citizen of the United States in that he was first a citizen

of some State. Growing out of citizenship was the right of suffrage. Not only was this restricted to certain classes of citizens, for there were property or educational restrictions in many of the States, but there could be no right of Federal suffrage apart from that recognized by the individual States. Members of Congress, even presidential electors, were elected by those who voted for State officers. It was no doubt wise that there should be only one rule of suffrage, and perhaps inevitable that this rule should be fixed by the respective States; but the result was to place the control of Federal elections in the States and not in the Federal government, which was most concerned. Only in New England was the right of suffrage extended to all men without regard to race or color, and, so far as the negroes were concerned, there were so few of them that it made no practical difference. In perhaps all the other original States and in all admitted prior to the Civil War the law restricted suffrage to white citizens. This was objectionable to the abolitionists, who considered that all men were equal, regardless of color and antecedents, and, when the southern representatives withdrew from Congress, Sumner, Stevens and their followers were able to refuse admission to any new State which did not recognize the equality of all men at the ballot box.

In 1863 an attempt was made to erect Nevada, a territory of only seven thousand population, into a State, but the people opposed it because they felt unable to bear the expense of self-government. The discovery of minerals changed this and in 1864 a constitutional convention met. Not one member had been born on the Pacific Coast, nearly one-third were natives of New York, and the vast majority were from other free States. In the instrument adopted slavery was prohibited, and a new principle saw the light when it was declared that "paramount allegiance of every citizen is due to the Federal Government." The bill of rights even went further and declared "the Constitution of the United States confers full power on the Federal government to

maintain and perpetuate its existence, and that whensoever any portion of the States, or people thereof, attempt to secede from the Federal Union, or forcibly resist the execution of its laws, the Federal government may, by warrant of the Constitution, employ armed force in compelling obedience to its authority." Paramount allegiance to the Union had been declared in the new constitution of Maryland adopted October 10, 1864, and with Nevada the right of national coercion was proclaimed for the first time in an American constitution, although the new State set the example, which was not followed in the South, of refusing to make previous loyalty the test of the right to vote. The people adopted the constitution, and Nevada was admitted, October 31, 1864, the thirty-sixth State of the Union.

The Dred Scott decision of 1857 had declared that in the Constitution the negro was regarded as property rather than as a person, and, although the Thirteenth Amendment had changed this, further amendment of the Constitution was necessary to make him a citizen. There were indications that the zeal of the North was waning. Although abolition was secured, there might come a reaction against the negro if left without political status, and so the abolition leaders, who were still in control of the dominant political party, determined on broadening their work. Heretofore citizenship had been a matter of State policy, and thus there was no way of making the negro a citizen in the Southern States except by making him a citizen in all the States. Another amendment, the basis of Reconstruction, was therefore proposed by which citizenship would become a Federal and not a State matter. Incidentally this made the Constitution national rather than Federal, although the distinctive word was not used, and in this consists the great importance of the Fourteenth Amendment. It had other provisions, such as disfranchising the southern whites, forbidding payment for slaves, and the like; but these were temporary or individual. The strength of the amendment consisted in its embodying in the written Constitution the

popular verdict already rendered, that not only could there be no secession of a State, but that citizenship was henceforth primarily of the nation and only secondarily of the State.

The first State to ratify the new amendment was Connecticut on June 15, 1866, although not without opposition, which was to be shown in almost every State. The slowness of the ratifications testified to the fact that the people were not as well prepared to adopt the new policy as they had been to abolish slavery. New Hampshire and Tennessee ratified in July, New Jersey and Oregon in September, and Vermont in November, while New York, Illinois, West Virginia, Missouri, Kansas, Nevada, Indiana, Ohio and Maine did not follow until January, 1867. In February came Minnesota, Wisconsin, Rhode Island, Pennsylvania and Michigan; in March, Massachusetts, and Nebraska, the youngest State, adopted it in June, a year after the measure had been proposed by Congress. Iowa, a Union stronghold during the Civil War, was on April 3, 1868, the last of the northern States to ratify. On the other hand, Delaware, Maryland, Kentucky and California rejected the amendment, but nevertheless enough votes were secured from reconstructed States to enable the secretary of state on July 28, 1868, to proclaim the Fourteenth Amendment a part of the Constitution.

The tide toward the black man was running out. He was made a citizen, but with more difficulty than he was made a freedman. The cry from the South was rejected as rebel and prejudiced, but the next possible step, the franchise, caused yet more serious pause. The "man and brother" was after all of a different race, and some who favored emancipation might doubt the policy of making him a voter also. Extremists believed that America could assimilate all races and colors as it had all classes; but all people were not extremists.

There had been all along in the minds of some abolitionists the aspiration to confer the franchise upon the negro. If

he was made free, if he ceased to be a chattel and became recognized as a man, he must have some position in the body politic. The Fourteenth Amendment went so far as to declare him a citizen; if a citizen, why should he not vote?

The subject was broached as a State measure in Maryland in 1867, but the franchise was restricted to white men. Almost contemporaneously there was a constitutional convention in Michigan to amend the constitution of 1850, and after long debates the franchise article as adopted made no discrimination between races; but the people rejected the constitution. There was a convention in New York also in June, 1867, and the abolition of all discrimination was urged upon the members by the noted publicist Francis Lieber, who had lived North and South. Horace Greeley was chairman of the committee on the suffrage and secured the provision that there should be no discrimination against the negroes. It was arranged, however, that the matter should be submitted to the people, and when it came before them in November, 1869, a majority of forty thousand refused to abolish the negro property qualification. The constitution of Pennsylvania excluded negroes from the ballot, and in Minnesota in 1865 unrestricted franchise was defeated, although the supreme court nevertheless found a way to construe even the old constitution as authorizing universal suffrage.

It seemed, therefore, to be gradually realized that the revolution which had freed the negro and made him a citizen need not go the length of endowing him with the franchise; for strong Republican States in the North and West drew the distinction. Pennsylvania and New Jersey went Democratic when the question was raised, Minnesota refused to strike out the word "white", and Ohio and even Connecticut recorded their disapproval of local negro suffrage. It was this uncertainty which caused Congress to make the adoption of a proposed Fifteenth Amendment a prerequisite to the admission of Virginia, Mississippi and

Texas, the three southern States last to be reconstructed, so as more certainly to secure ratification.

Congress had utilized the District of Columbia for political experiments, and the question duly came up as to suffrage. This was submitted to a special election in December, 1865, but rejected almost unanimously; only thirty-five votes were cast for it in Washington and one in Georgetown. Nevertheless a bill authorizing the negro to vote in the District of Columbia was passed by Congress on January 8, 1866, and repassed over President Johnson's veto. The same principle was by act of January 25, 1867, extended to all territories of the United States, and this also became a law without the approval of the president. The question now came before Congress upon the application of Nebraska for admission with a constitution which restricted suffrage to white persons, and admission was refused unless this limitation was omitted. Nebraska accepted the condition and was proclaimed a State March 1, 1867.

The people by the election of Grant in 1868 overwhelmingly ratified the reconstruction policy, including the Thirteenth and Fourteenth Amendments, and the time seemed ripe for completing the work of national reconstruction by making the negro a voter. How to do this was difficult. The Fourteenth Amendment had made citizenship national, but even Congress was not prepared to propose an amendment which would make suffrage national. Even while the Fourteenth was in process of adoption, Henderson, of Missouri, on March 7, 1867, had taken the initiative and offered a resolution which became the basis of a proposed Fifteenth Amendment, based on a negative provision of the Civil Rights Act. There was much discussion in both branches as to the form of the measure. The House took one view and the Senate another, and the proposed amendment finally in February, 1869, failed in the conference committee. Nevertheless on the motion of Stewart, of Nevada, the Henderson measure, which had been dropped for the house resolution, was then taken up and as the result of

conference the Senate measure was practically adopted in both houses.

Its fate before the country was uncertain, although within a month Nevada, West Virginia, Illinois, Michigan, Wisconsin, Massachusetts, Maine, Pennsylvania, and three of the reconstructed States ratified the measure. New York ratified in April, 1869, but in the fall withdrew its action, and the next month Ohio conversely rejected the amendment but in the succeeding January ratified it. In May, Indiana and Connecticut acted favorably, in June Florida and New Hampshire, in July Virginia, Vermont in October, and Alabama in November. In January, 1870, Mississippi, Missouri, Rhode Island, Kansas and Ohio ratified. In February Iowa, Nebraska, and Minnesota, which with two of the ever reliable southern States made up the number necessary for adoption. Almost a year afterwards New Jersey ratified, and meantime California, Delaware, Kentucky, Maryland, Oregon, and Tennessee rejected. On March 30, 1870, Secretary Seward proclaimed the amendment a part of the Constitution.

It will be observed that the response to this proposed amendment was slower and less enthusiastic than to either of the others, and that there were more rejections recorded than to the others. Moreover, there was a new feature presented in the great States of New York and Ohio, which had done so much to secure the abolition of slavery and restoration of the Union: the balance of political parties was so even that successive legislatures ratified and rejected the franchise amendment. If Delaware and Kentucky were the only States which consistently rejected all three amendments, not only Maryland but California, the cause of the compromise of 1850, rejected the Fourteenth and Fifteenth. Either the people of the country were receding from the enthusiasm of the last few years, or the Republican leaders were going further in reconstruction than the people thought necessary. Even as adopted, the Fifteenth Amendment did not create a national suffrage; the subject was left, as

before, a matter of State legislation, and it was only determined, that, if a State exercised her rights adversely to the interests of any race, her representation in Congress should suffer proportionately. This was a lame and impotent conclusion to the great movement toward centralization; but it was as far as the people would go.

Of the thirty-seven States in the Union when the Fifteenth Amendment was adopted the qualification of the franchise was in all but six limited to the white race. Of these, five were in New England, and the remaining one was Kansas, the battle-ground won by the old free soil movement. After the passage of the amendment, the limitation was gradually stricken out as new constitutions were adopted or old ones amended, and yet even at the close of the nineteenth century it could be read in the fundamental law not only of Maryland, as might have been expected, and Oregon, which had wavered as to the Fourteenth Amendment and rejected the Fifteenth, but also in such Republican strongholds as Michigan, Nevada and Ohio.

Our review seems to show that well as the southern people might balance the eastern in Congress and on the field, the gradual growth of the West changed the result. There were developed a new kind of Americans, whose ideals were less fastened to local institutions, and who were connected by origin and rail with the East sufficiently to absorb its best, and yet with an outlook down the Mississippi which could not permit a division of the valley. This was hardly realized before the outbreak of the Civil War, but in that struggle and the readjustment which succeeded the influence of the West was dominant. The president was Lincoln, of Illinois, the secretary of war was Stanton, of Ohio, the genius of the treasury was Chase, of the same State. In the field there were only Butler, McClellan and the like from the East to compare with the greater Grant, Sherman and others from the West. Even among the governors of the day Andrew and Curtin were rather administrators, while Morton, of Indiana, although a partisan was a statesman as

well. It is true that in the East was Sumner and in Pennsylvania Stevens, men of force and influence; but it was not less true that Sumner was a doctrinaire and Stevens almost a monomaniac.

To a large degree the West reacted upon the East and reconstructed American ideals. The war abolished slavery, but the West afterward carried through its policy of nationalization. The North had passed from the national theories of Webster to the practical legislation and acts of war times which made nationality a fact, and then undertook to nationalize the South also. The methods pursued produced deplorable results, for they were based upon theories and took no account of the silent, unconquerable resistance of race instinct and public opinion, but if the local injuries could be eliminated and only the nationalization perpetuated it might well be that a result would be attained which would bring lasting good to the whole country.

CHAPTER XX

A CENTENNIAL SETTLEMENT

It is difficult to fix a precise date for the beginning of an historical epoch, and a precise date for its ending; but if the surrender of the Confederate armies may be said to mark the beginning of civil reconstruction, the time when the reorganized nation should give its attention to other matters than the process of reorganization would mark its end. It is worth while investigating the economic development of the decade after the surrender to see if such a consummation were in sight, but with the general history of the country we are not concerned. Foreign affairs interest us only as showing the greater power exercised by the nation in external relations. The purchase of Alaska from Russia in 1867 was a great step, although its importance was not to be realized for decades later, and the enforced withdrawal of the French from Mexico the same year made the Monroe Doctrine a reality. The attempted annexation of San Domingo in 1869 was in some respects a mark of statesmanship on the part of Secretary Seward, but it failed from the general feeling that the United States already had enough ignorant voters. The long dispute with Great Britain over the damages caused by the *Alabama* and other Confederate cruisers led to the treaty of Washington in 1871, which prevented a possible war, while the contemporary conflict between Prussia and France did not directly affect America except in reducing the demand for cotton and other products.

On the other hand the clash with Spain brought on in 1873 by the execution of the *Virginius* crew, among them a southerner, Captain Fry, tended, although belatedly, toward unification of the sections.

Meantime the development of the country, especially during President Grant's first term, was such as turned the public mind rather toward the present and future than the past. If one could point to a single element as being typical of the time it would be the growth of railroads, and this in particular from the completion in 1869 of the Central Pacific system, which united the Atlantic and the Pacific Coasts.

The old quest for the Northwest Passage by which commerce could pass from Europe to Asia was in these modern days met by that transcontinental railway. It was because the unknown continent had been in the way of explorers seeking Asia that America had been discovered and colonized. The sea route necessary around Cape Horn was long and dangerous, even transshipment at Panama was not satisfactory, but now the building of the Pacific Railroad promised to solve the problem. The imagination seized hold of the situation almost as in the days of Columbus, but there was a feature connected with it of greater importance than that of transcontinental traffic. This Pacific railroad, like every road tributary to it, not only carried freight and passengers from end to end, but developed the intermediate country by bringing people and transporting products, and led to a different kind of colonization from the past. The British settlement, unlike the French, had been a gradual coming of pioneers who made homes and constructed local roads along the advancing frontier; the French had overspread the continent with depots and posts to hold the trade routes,—and this was now precisely the method of the railroads. They were not built according to the local needs, but crossed a State or a continent with leaps, intent at first upon commerce rather than settlement. But there were people to spare from the older States, and the vast immigration from Europe supplied many more to settle along

these new routes, so that, although it was a modern adaptation of a French plan which had failed, it was used by American civilization in a way which succeeded.

The railroads of the country became tributary, directly or indirectly, to the new transcontinental route and the possibility and advantage of systems instead of interurban railways became realized. Engineers made reputations by constructing great bridges which obliterated State lines and made travel continuous and easy. Along the Pacific Railroad from St. Louis by way of Denver to San Francisco grew up States, some like Kansas, already known to history, and others like Colorado, yet to be admitted into the Union. To the east, lines through the Northwest made traffic arrangements and gradually fell into harmonious groups, with St. Louis as an objective, and south of the Ohio River somewhat the same was true. If Atlanta and Chattanooga became centres, they were only centres for systems which aimed to reach the Atlantic on the one hand and, directly or indirectly, St. Louis and the Pacific on the other. The Blue Ridge Railroad, the occasion of so much fraud in South Carolina, was an attempt of this kind, and the Baltimore and Ohio was extended into a great system to Cincinnati and the West under the new inspiration. Many roads were projected from such trunk lines to tide water, some to succeed, some to involve communities if not States in ruin. The old Confederate route through Memphis and Chattanooga to Piedmont Virginia grew into a system, and lines between such cities as Vicksburg, Meridian, Montgomery, and Atlanta were projected eastwardly through the Atlantic States and westwardly through Texas, for the success of the Central Pacific led to a plan for a Southern Pacific, and then the same intermediate processes were repeated in the Southwest. Later yet was to come a Northern Pacific, too, but not within our period. State endorsement and frauds accompanied the southern schemes and often caused local suffering; but most of the roads actually built were either well planned or admitted of incorporation into

trunk lines when great railway systems had become an accomplished policy.

These all tended toward the nationalization of the country. Development was fairly well diffused, but the growth was different and unequal north and south of the Ohio. In the North, agriculture was generally in a higher stage of perfection than at the South, and the two new features were added of an expansion of the manufactures fostered by the war tariff on imports, and of the increasing immigration from abroad. Both features were magnified and extended by the railroads and water routes connecting the Northwest and interior States with New York, Philadelphia and Boston.

At the South the process may be described rather as one of readjustment than of the introduction of new elements. There was little immigration from abroad, and not much even from northern States. The presence of the negroes seemed to have a deterrent effect now as before the war, and many of the northerners who came were for political reasons unacceptable to the old population. Agriculture cannot be said to have been stimulated, although the restlessness of the negroes immediately following emancipation was overcome in time. While some flocked to the towns and others became laborers in the railroad construction of the day, many went back to the old plantations. Nevertheless there were fewer laborers in the country than were needed, and many of these were becoming less reliable year by year.

In cases where the owner did not attempt to farm all his land, and these were numerous, the negroes rented portions of the plantations and raised their own crops, paying rent in cotton. Here a new custom sprang up. The landowner might supply his renters with food, clothing and agricultural necessities, but as a rule these were furnished by merchants in the towns, to whom in turn the negro sold his cotton after payment of rent. This led to an extension of the law of liens imposed originally by the military so as now to protect the landlord and advancer, and resulted in a

complicated system where interests conflicted. This somewhat resembled the *métayer* system of southern Europe,—the less progressive part,—but the increasing sales and subdivision of over-large plantations pointed to the rise of negro tenant farmers of a sounder kind than if they had been created by the Federal government on confiscated lands. Meantime there gradually came about a modification in that little stores grew up, managed often by Jews, who supplied the negro tenants and shipped their cotton to the port or mill. Where these storekeepers came from it was not always easy to say, but there they were, and they did a flourishing business throughout the South. As they advanced in wealth, as they generally did on the profits of the business, they moved in turn to the towns and often grew into great merchants. The Jewish element in the South thus received an impetus from the reorganization after the war, and were themselves a substantial factor in the enormous industrial reconstruction of the South, which even at the close of the century was uncompleted.

This system of advances was not in its full extent applicable to those districts where other products than cotton predominated. Rice and tobacco culture hardly admitted of sub-infeudation to the same extent and saw little change in the old methods except so far as new capital was introduced. Along the Mississippi there was found on the sugar plantations the manufacture of sugar and molasses, and even refining processes, which required great capital, the more especially as the business was confined to a few months of the year, and caused the growth of methods peculiar to the district. Sugar was almost the only product which received benefit from the tariff, but machinery and everything else going to develop it were so heavily protected as in the minds of many to balance much of the aid received.

The possible indirect effects of the tariff, also, did not attract attention for some time, the more so as the policy was adopted of paying off the public debt, and the manufacturers persuaded the public that the prosperity of the

country was bound up with existing schedules. There had always in the South been opposition to the tariff because of the feeling that it increased the cost of machinery and manufactured articles while at the same time in the nature of the case it could not increase the price of the agricultural products exported,—the mainstay of the country. One of the great compromises of Henry Clay, following the nullification movement in South Carolina in 1832, had led up almost to free trade in the decade and a half preceding the Civil War, a most prosperous period. That struggle, however, had been the occasion of a change of policy. The South was not afterwards in condition to offer a protest against the tariff which would have any effect; but if the increasing agricultural interests of the West and Northwest also became restless, there might come a different alignment of political parties.

The east and west railroad development of the West now successfully competed with the water transportation to the Gulf and coastwise trade from the Gulf ports. The explanation of this is not far to seek. The economic result of the war had been to develop the North and West and increase the fortunes of its capitalists, while exactly the opposite had occurred in the South. The North was in a condition to reach out and establish a commercial hold on the South, while the South was unable even to rebuild its own waste places. Northern transportation routes were firmly fixed and only extended as time passed, while northern shipping did not seek southern seaports, whose mainstay was the foreign cotton trade in European bottoms. New Orleans was the most striking example, although the same was true in a less degree of many other places. Such interior cities as Louisville and St. Louis developed even a lower river trade at the expense of New Orleans, and the railroads took northward much of the cotton which formerly sought the Gulf. The whole country, North and South, became more and more tributary to the eastern ports, and particularly to New York, which now assumed its metropolitan character.

The competition of the water routes with the railroads increased western development, and it pushed Chicago and other lake ports into prominence without injuring New York.

These commercial movements were only what might have been expected. The citizens of a place may feel personal sympathy with the sufferings of citizens of other places, but will not for that reason neglect to extend their own facilities. Had the secession of the southern States been successful, we should have seen the converse result. The West would in all probability have broken off from the East and become associated with if not tributary to the Southern Confederacy controlling the mouth of the Mississippi, and New Orleans might then have become the greatest city of the continent even more easily than New York attained that position. What New York lacked in natural advantages, the Civil War gave her adventitiously; for it cut off access to the natural outlet of the Mississippi Valley at the very time that railroads were developing, and New York's capital was able to mould the situation to its liking.

One might suppose that the extension of railways would inure to the benefit of the seaports through which the products of the land had been handled from colonial days and that the recuperation of the country at large would dictate improvement of the ports. In point of fact this was not true. The development which ensued despite the misgovernment and the industrial revolution which succeeded the Civil War tended to the growth of the interior towns more than of the seaports. This was not so at the North, where Philadelphia, New York and Boston, as well as Baltimore further south, received great accession of power and influence, and in the exhaustion of the South they attracted a good deal of the southern development to themselves. This would mean the growth of the interior towns as way stations to the North; but this town growth was aided also by the bonded warehouse system which had grown up during the Civil War. By this the United States allowed imports to be brought in sealed cars from seaports to such

towns as Memphis and Louisville and deposited in bonded warehouses for distribution, as would have been done at the seaports themselves. This secured many of the advantages of seaports in addition to those which the towns had geographically from their interior position. The growth of railroads and the tendency towards community of action, if not toward railroad systems, enabled shippers, for instance, of cotton, to secure through bills of lading from an interior station not only to the coast but to points of consumption in Europe. Cotton could be shipped from Memphis on a through bill of lading to Liverpool or Hamburg, and transfer the middleman's profits from the seaport to the interior. When one adds to this the development due to railroads, reaching in all directions, and the growth in many cases of a river marine, bringing cotton and other products to such points as Memphis, it is evident that the commercial processes of Reconstruction times were tending to a growth of the interior districts, and at least a proportionate falling off in the importance of seaports. The result was to be that the improvement of the South came as waves gradually advancing from the East and North, perhaps we may say spreading from Baltimore and Louisville southwestwardly.

The new railroad systems nevertheless did a great deal toward developing southern resources and bringing in northern capital. Thus the coal and iron regions of Alabama, in the Warrior and Cahawba fields among the foothills of the Alleghanies, began to attract attention with the building of the Alabama and Chattanooga Railroad. The hematite and coal had been known there long before and worked as well as irregular water and overland transportation would admit. During the war the Confederate government had made some use of the ore and had cast ordnance at Selma,—where, for instance, the formidable ram *Tennessee* was constructed. Chattanooga had received an impetus from similar causes, and the building of the railroads but opened the whole region to the outside world. The result was the foundation of a new town called Birmingham about 1871 and the

gradual exploitation of the mineral region. The same was true also of West Virginia, where petroleum was added to mineral wealth, and all helped and was helped by the Baltimore and Ohio Railroad.

The use of capital was not confined to the coal and iron districts, for manufactures, especially of cotton goods, were soon seen to have advantages at the South. Augusta on the Savannah River, safe from Federal inroads, had operated a cotton factory during the Civil War, and even under Reconstruction this enterprise had grown. The deflection of part of the river in order to operate factories led to the opening of other mills, which competed as well as transportation facilities allowed with those which far from the cotton fields had grown up in Fall River and elsewhere in New England. The Piedmont region of South Carolina was from its water power found to possess special advantages, and in course of time a similar development occurred there and elsewhere along the "fall line" of the South.

In the readjustment of social economy one must not overlook the southern migration to the new Southwest beyond the Mississippi. Political troubles aided the tendency, but probably the controlling motive was that which had settled up the old Southwest, from Georgia to the Mississippi. Originally the fact that the new fields of Georgia, Alabama and Mississippi produced a greater yield of cotton had attracted many people from the less productive land near the Atlantic, and in the years succeeding the war the disorganization of labor reinforced this same tendency to seek in the virgin soils of Arkansas and Texas what had been lost east of the Mississippi. While on the one hand, therefore, the negroes to some extent left the country for the towns and railroads and rendered planting less reliable and remunerative in the old States, many of the younger whites sought more promising homes beyond the Mississippi River, with the result that there came to be proportionately more growth in the agricultural region of Arkansas and Texas than in the central South.

An emigration of a different kind also took place which was not without results. At the close of hostilities some southerners sought foreign homes, and among the most striking examples was Judah P. Benjamin, quondam Confederate secretary of war and later of state, who removed to London to become even more eminent at common law and in legal literature than he had been in civil law in Louisiana. Some officers and privates went to Mexico and Brazil, but of more importance was it that many southerners left their own disturbed States and sought business and homes in the North. Some rose to distinction and all exercised a more healthy influence than did the majority of the northerners who came South. This endosmose and exosmose of population between the sections may have been small in individual districts, but it was yet appreciable in the mass, and lent its aid to a better understanding and the creation of a higher Americanism.

These silent and unrecognized forces were now reinforced by an event which brought the result to public consciousness. The willingness of most of the southern people to enter again upon citizenship in the American Union was real, although not always credited, and showed itself more strikingly as the centennial of revolutionary battles approached. At the North each of these local events was celebrated in every way that money and oratory could make memorable. At the South there was little money, and oratory was devoted to the more pressing political needs of the hour; but nevertheless there was a general return to the memories of long ago and on both sides of Mason and Dixon's line a gradual softening of asperities and a dwelling upon the history which the country had in common. If the Boston Tea Party was commemorated, so was the Mecklenburg Declaration, and the whole country was interested in the Centennial Exposition at Philadelphia. The man who as Federal commander-in-chief had restored the Union, now as president opened a world's fair which, although inferior in size and exhibits to some since held, was perhaps more

remarkable than any other. It was the first international effort of the kind made by America, and, while it showed the nations of the old world what the new had accomplished in a hundred years, it also showed Americans how much they had yet to learn from abroad in arts and sciences. This celebration was non-partisan, and not only took the public mind away from disturbing questions but enlisted all in something going back of questions which had disturbed the Union. In working together on a matter of common interest, the alienated sections learned to understand each other better, to forgive much and forget more. Southern States as well as northern had exhibits and official buildings, Northerners and Southerners mingled in the visiting throngs, and perhaps the most beneficial result of the exhibition was the fraternity which was felt throughout all parts of the Union. Political reconstruction had accomplished something, railways and commerce more, but the reconstitution of a common patriotism was due especially to the Centennial Exposition.

Economics, modified by the personal equation, are the basis of politics as well as history, and it may well be imagined that economic conditions would gradually affect the political situation.

If Slavery was the political touchstone before the War and Union that during the civil struggle, the Fourteenth Amendment took their place afterwards. It was the cornerstone of nationality, it was the touchstone of the political parties which were to establish that nationality. It is a mistake to imagine that all the virtue and intelligence of a country reside in one party. Political organizations play the part of lawyers before a jury, and literally put themselves upon the country, which delivers the verdict. The leaders may not fully believe their own cause and may enlist for the expected rewards, but their followers are generally in earnest. The debate and criticism enlighten the country, and, except when some wave of passion interferes, modify the result. Political parties, like the ancient states, are apt to

claim an exalted genealogy, but the Republican organization was not old. It was founded essentially upon the anti-slavery issue, and grew with the recrudescence of slavery, when the Kansas-Nebraska bill of 1854 sought to open the territories to squatter-sovereignty decision. In a sense, the Democratic South came to regard the Constitution and its guarantees, as it understood them, as the object of the Union; the Republican North to regard the Union as the object of the Constitution. When the stress came each section followed up its ideal by corresponding action. In 1860 the Republicans elected Lincoln and upon assuming charge of a disrupted country developed a national policy. When war came, they were reinforced by all lovers of the Union, whether Whigs or Democrats, and, as a result, they were able to carry the United States successfully through the greatest of civil wars and secure the adoption of the amendment abolishing slavery.

Then, however, the situation was altered. When the Union was preserved and slavery gone, the party had accomplished its mission and its heterogeneous elements threatened to dissolve. It was, like the Liberal Unionists of Great Britain, a temporary union of patriots rather than a lasting political institution. Its nominal head, President Johnson, had been a Democrat and was regarded with suspicion by the original abolitionist element, the men who even under Lincoln were radical and now became the leaders. A reconstruction of political parties was imminent.

Lincoln might have broken with the radicals and built up a new conservative party, North and South, somewhat as in the era of good feeling under Monroe, but the assassination of the president not only removed his wise moderation but threw the excited country into the arms of Stevens, Sumner, Morton and other extremists. It is true Johnson attempted a conservative course, but it was along with utterances so violent as to be radical in the other direction.

Radicals had never liked Lincoln's plan of restoration because it was without the element of punishment for the

South and entrusted the process to the president instead of to Congress. Johnson's policy they liked even less. They proposed the Fourteenth Amendment and brought a new issue to take the place of Slavery and Union.

Johnson's attempt to build up a new party of Democrats like Bancroft and Black, Whigs like Ewing, and conservative Republicans like Seward, failed. The radical programme prevailed overwhelmingly. The Fourteenth Amendment became part of the Constitution, Reconstruction the law of the land, and the president, if not removed, was at least shorn of power to oppose. The Republican organization became radical, and ultimately carried along even conservatives who were unwilling to leave old political associations.

Reconstruction primarily concerned the negro, and naturally legislation took two directions. In the first place, the Black Codes, where not already repealed, were set aside by the Civil Rights laws. The first of these was passed early in 1866 and it was the doubt as to its constitutionality that led to the Fourteenth Amendment. It was therefore reenacted in 1870, and in 1875 extended to a positive declaration of equal rights in inns and public places. The Supreme Court was in 1883 to declare that the later law went beyond the Amendments in that it aimed at direct legislation by Congress and not at correction of State action, but meantime the attempt had a powerful party effect. Favored by the radicals, the bill of 1875 was in its turn the one thing needful to solidify the White South.

The second direction of the legislation was the protection of the political rights of the negro. The Fourteenth Amendment aimed to punish denial of these by proportionate reduction of representation, but this proved insufficient and in 1870 the Fifteenth was adopted, directly forbidding such discrimination. Two months after its ratification was proclaimed, Congress proceeded to enforce it by supposedly appropriate legislation, the Enforcement Act or Force Bill of May 31, 1870, soon extended by a supplement of February

28, 1871. Under these, elections and even registration were brought within the jurisdiction of the Federal courts, and of the same class was the Ku Klux Act of April 20, 1871, vastly extending the law and punishment of conspiracy.

The Republican Congress was sufficiently responsive to growing public opinion, however, to enact March 3, 1871, the first but short-lived Civil Service law, which relieved much of the strain on the president, and ratified the principle of Johnson's proclamation of 1868 by passing, May 2, 1872, an act removing disabilities under the Fourteenth Amendment from all except persons who had abandoned Federal offices in order to join the Confederacy. The spoils system had seized strong hold of Congress, as was shown in the passage in 1873 of the Salary Grab law, which increased even past earned salaries, and in the discreditable means employed by the Credit Mobilier to secure the sixteen thousand dollars and more per mile and the twenty-five million acres for the Pacific Railroad.

The Republican party could justly take credit for a strong negro policy, which was indeed its *raison d'être*. It esteemed the African a black Caucasian and essayed a task whose like had up to that time never been successful,—putting civilization on a people from without. They found an affectionate, credulous race, which followed the new masters and enabled them to wreck States for the resulting plunder,—a child-race, but unable to grow above a child-intelligence. The Republican leaders took no account of the necessary effect upon their brother white men. Enthusiasts like Sumner and practical politicians aiming at party supremacy disbelieved stories from the South of the acts of the blameless Ethiopian and his martyr allies, native or imported. Instead of welding a nation out of the white men, the leaders of the country, the Republicans insisted on attempting to make one out of a White North and a Black South. Here was an opportunity for reformers from within or an opposition from without to drive a great party from an impossible task, and in divisions over national, and not sectional or

race differences, to forget an unfortunate past in a greater future.

In the system of parliamentary government derived by America from England, political parties are a necessity. It is a misfortune when there is no true opposition, when the organ of criticism is reduced to the function of protest only. When the bill making the slave trade piracy passed in 1862 without a negative, Seward exclaimed, "The Democrats have disappeared!" but in his own New York and the West he soon saw his mistake. There always remained an old guard, few in number but antagonizing all they deemed unconstitutional, and in some cases rabid even unto Copperheadism. Later they opposed the adoption of State and Federal abolition, but, as the war swept on to a victorious conclusion, they could amount only to a party of protest.

At the time of Johnson's restoration there was no necessary connection between the South and Democracy. The recrudescence of the old differentiation between Southern Whigs and Democrats has already been noted. Their differences over the nature of the government had only been stilled by the common feelings engendered in a war for defense of home and institutions. The end of slavery, the opening of a new period, offered the opportunity for new alignments as soon as the bitter feelings could be overcome by time or new interests. Congressional Reconstruction, however, eliminated the southern whites from politics, and added their States to the Republican column. Northern Democrats were too few to formulate a policy, but became with the representatives of Border States, such as Reverdy Johnson, of Maryland, a party of criticism. When the South began to gain congressmen, they too became members of the opposition. There was room but for one such party, and the provisional name Conservative gradually followed Whig into the political limbo of departed things. All not Republican became Democratic.

The Republicans meantime, Reconstruction being apparently settled, evolved into a coherent political party aiming

at nationalism through liberal construction of the organic law. Having saved the Union by the strong hand, it was not unnatural that their tendencies should be toward a strong government. Nationalism had been their means and now became their ideal. National banks, high tariff, protection of the negro, and internal improvements, especially of rivers and harbors, and aid to railroads, became policies of the party. The reduction of the national debt required settlement of the money standard, and herein began a difference between the commercial East and the agricultural West. On the whole, the Republicans aimed at adding to their old missions of Emancipation and Enfranchisement the new one of Consolidation, and after 1867 came the catchword that the United States was "a Nation with a big N." Only mismanagement within, change of view by the country as to past policies, or the rise of new questions could disturb the supremacy of the ruling party and prevent it from having a lease of power for this third mission. All of these things were improbable: and all of them happened.

Stagnation breeds decay in politics as well as in nature. A party is apt to consider that the future can be regulated only by those who have formed the past; and yet, unless democracy is a failure, it is not possible in the long run to have a country ruled by one set of men. A leading cause of the great civil struggle was the long supremacy of one party. Nevertheless inertia is apt to carry a party like any other object forward long after the first impulse is removed. In prosperous times there is no reason for turning political leaders out of office, and they have little difficulty in making the people believe that they are the cause of prosperity.

Some of the policies adopted during the war in aid of nationalization were felt to be oppressive after that result was assured and became in time of peace problems of internal politics. Administration methods at the South were less and less approved, and about 1872 some prominent men who had been identified with the Republicans abandoned the party.

Carl Schurz could at last regret the results of the military reconstruction which he had once urged, and when such leaders as Andrew G. Curtin and Horace Greeley and others of their kind could leave old affiliations on account of administrative corruption and the use of troops at the South, it might be only a question of time when the people would follow. Indeed not a few of those, who, like Charles Sumner, remained with the Republicans criticised officials and newer policies in a way which aided those who had felt compelled to leave the party. Finally a convention of Liberal Republicans was held in Cincinnati under Schurz as presiding officer and selected a presidential ticket and platform. Horace Greeley, of New York, and B. Gratz Brown, of Missouri, were nominated for president and vice-president, and the Democrats met later only to ratify the selection.

Ulysses S. Grant and Henry Wilson, on the other hand, were nominated by the regular Republicans, and the people at large were not prepared to reject the great general and choose the variable editor. Grant had defeated Seymour in 1868 by two hundred and fourteen electoral votes to eighty; now in 1872 he defeated Greeley by two hundred and eighty-six to eighty,— and thus proportionately by a larger vote. The difference in numbers was due not only to increase in population but to the intervening readmission of reconstructed Virginia, Georgia, Mississippi and Texas. Mr. Greeley died, possibly of disappointment, before the counting of the votes.

If a political party was to claim credit for prosperous times, however, it could not escape accountability for times of depression. Speculation of all kinds became rife, and not only railroad building but other schemes were pushed beyond legitimate limits. Added to this, in 1871 a conflagration at Chicago destroyed two hundred millions and one at Boston next year seventy million dollars of property and caused distress, increased by prairie fires which swept the West. In 1873 came a great financial crash, due principally to overconstruction of railways, and panic was widespread. Nature,

too, was less responsive, and, worse yet, the long domination by one political party had brought the inevitable result of corruption in high places, now at last too evident for concealment. Even the building of the Pacific Railroad had been accompanied by Credit Mobilier scandals, and the Indian insurrections at the far West, causing much loss of life and money, could in many instances be traced to frauds of government agents. Impeachment of a Cabinet officer, the closing of the Freedmen's Bank, and the investigations of the Freedmen's Bureau were unsavory events, and in 1875 the Whiskey Ring in the West added fuel to the flame.

In all this there was nothing which attached to the president, although officials and friends near him were smirched, but his management of what was called the southern problem gave increasing dissatisfaction. The use of the Federal army in elections and to sustain local administrations was increasingly repugnant to the Anglo-Saxon love of self-government, and solicitude for the negro gradually yielded to a conviction that any government which must rest on outside assistance rather than on its own people was not worth preserving.

On the other hand, at the South the whites had soon realized the misfortune of not securing control of the freedman's vote and Radicalism had hardly reached its high-water mark when the redemption of the Southern States began. In Tennessee the end came by a natural evolution after Brownlow went to the Senate. In 1869 the contest for governor was between two Republicans, but as the courts declared a Brownlow franchise law unconstitutional, so many new voters participated as to elect the more moderate candidate and a representative legislature. This called a constitutional convention, which in the next year undid much of the recent past, so that in 1871 the Democratic candidate, John C. Brown, became governor. In Virginia the moderate Gilbert C. Walker had been elected governor in May, 1869, and soon the Democrats resumed the whole government and parties could be realigned on questions as to

readjustment of the State debt, which West Virginia refused to share. In North Carolina the military tyranny of Holden resulted in Democratic success in August, 1870, and when Bullock left Georgia in December the whites came to their own. The candidacy of Greeley two years later brought such men as Joseph E. Brown back into affiliation with their old associates and healed the Democratic breach.

Missouri had even in 1870 suffered a party split which in creating a Liberal Republican party under Carl Schurz and B. Gratz Brown was to be influential outside the State. In 1872 she shook off Republicanism of the railroad type which since the building of the Union Pacific had fattened on her credit. Democratic hold was strengthened in other Southern communities, but Missouri was the only clear Democratic gain secured until the great tidal wave of 1874.

Alabama was politically the most variable of the southern commonwealths. The Reconstruction registration had shown a Republican majority in the southern two-thirds of the State, and if sparsely settled white counties of the south-east were Democratic, Madison in the Tennessee Valley was not. Even in the ensuing presidential election of 1868, the two ends of the State were Democratic, but the Black Belt, as well as outlying counties, elected the Republican W. H. Smith. The political map was changed enough in 1870 for the Republicans to lose the State, but in 1872 the Tennessee Valley went Republican for the first time when her D. P. Lewis became governor. In the election two years later both parties nominated gubernatorial candidates from this district. That campaign was decisive and is worth studying as an instance of how the Caucasians acted where they were to some extent divided. It is a case of evolution of political opinion.

At first the Tennessee Valley, while hostile to the negro, had a Republican bias, while, if the Black Belt was Republican in politics, the races were friendly. The Radical supreme court, however, held intermarriage between the races

lawful, and the negroes, echoing addresses of Boutwell and Morton at the North, came to demand social rights and mixed schools and offices in proportion to their numbers. As a result, the whites left the party in increasing ratio as railroad building and economic development led to better intercommunication and sympathy. The Valley became Democratic and the Black Belt began to draw the color line.

The campaign of 1874 came hard upon Sheridan's rigorous action in New Orleans and Vicksburg. The race issue became clear cut and the Pike County Platform, calling for social ostracism of all siding with the negro party, was the general watchword. On the other hand, the Republican conventions declared for the proposed civil rights bill and some factions for equal rights of all kinds.

The effect of the cleavage between Republican conservatives and radicals was well illustrated in Governor Lewis. He refused to join the attempt to make the negroes dominant. The Radicals, intent mainly on retaining office, deemed Federal interference the shortest and surest method. A race conflict suited them, because bringing about such intervention, and we have Lewis's testimony that they instigated riots for that purpose. The governor refused to use negro militia or call for Federal troops.

The whites under Captain W. L. Bragg effected a political organization unequalled since the war, and endeavored to prevent all acts of violence. The Republicans used every device known to keep the negroes intact and through political arrests by United States marshals to intimidate their opponents. Congressman Hays wrote Joseph R. Hawley a letter detailing political outrages, which the Connecticut congressman used to great effect at the North, until investigation by the New York *Tribune* showed it to be a tissue of falsehoods.

The decisive day finally came. On the whole there was less violence than might have been anticipated, although there were riots in Greene County, Mobile, and Eufaula, brought on by attempts of negroes to control the voting places.

Federal troops were called in, but their sympathy was not with the negroes and their action was only to maintain order.

Although the machinery was in Republican hands, there was a sweeping Democratic victory. George S. Houston was elected governor over Lewis by 107,118 to 93,928, and the legislature was Democratic by a safe majority. The Black Belt was to remain Republican for a few years longer, but the Tennessee Valley and mountain regions were almost solidly Democratic, and South Alabama showed strong Democratic gains. The race issue had solidified the Caucasians and resulted in the triumph of the superior race.

The same story might be told of Arkansas. Indeed throughout the South the issue caused those lately known as Scalawags quite generally to abandon their early alliance with the Carpetbaggers and return to their own kindred, while, on the other hand, negroes had become more and more restless under Carpetbag domination and sought the offices for themselves. The net result of Reconstruction was, therefore, negro rule, and, except possibly in Louisiana, where there was more crossing than elsewhere, negro rule meant increasing rule by those of darker skin and purer African blood. The whites through White League methods or otherwise everywhere made more and more determined efforts to regain control. The governors called on Washington for troops, but, owing to the trend of public opinion at the North, these became increasingly hard to obtain. Grant announced, however, that if they came there would be no child's play.

Whenever a State became Democratic not only was the new governor installed with an enthusiasm which meant more than pomp, but the event marked the beginning of a new political life. There followed a revision of election laws, always needed and not seldom used to perpetuate white supremacy, reduction of expenses down to the line of rigid economy, and often investigation and compromise of the State debt. On the one side was the claim, if not proof, of over-issue of obligations, accompanied often by the greatest

frauds, and on the other the realization that not only were the States still sovereign enough not to be the subjects of suit by an individual, but that they were unable to pay even if the debts had been valid. So that generally commissioners representing a State and its creditors agreed on a settlement on a living basis. One of the first acts of redeemed Alabama in 1874 was the appointment of two eminent citizens to negotiate a settlement, and on February 23, 1876, at the next session of the legislature a long and remarkable enactment, drawn by Peter Hamilton *currente calamo*, carried out the agreement by the issue of three classes of bonds, which took up endorsement, internal improvement, Alabama and Chattanooga bonds, and all other State indebtedness, without interest. Somewhat similar compromises were made by other States, although some holders of bonds alleged to be repudiated were later to try to force payment. The local subdivisions were less fortunate. Under proceedings in the Federal courts many counties and municipalities were practically bankrupted, and the States had to come to their aid by repealing charters and by other remedial legislation.

Of all the southern States, none was watched with greater interest than Mississippi, and in truth Mississippi did involve a sociological problem of great interest. In 1850 the races were practically equal in number, while in 1860 the whites were to the blacks in the ratio of 35 to 44. In ten years the whites gained a little, but the drift of the freedmen from the Atlantic States to the Southwest gave the negroes a lead which was to make them as 65 to the white man's 48 in the next census. South Carolina might be saved in course of time by immigration brought by manufactures, Louisiana by immigration down the great river, but it seemed as if each census would show a relative increase of the negro population of cotton-bound Mississippi. Certain it was that the registration in the seventies showed a black majority of 30,000 votes, which the radicals had learned to use to the utmost. There were perhaps two thousand Carpetbaggers in the State, and they occupied all offices possible from

governor down, except that the lieutenant governor, superintendent of education, and sheriffs and local officers without number were negroes.

If numbers were to control, Mississippi was as safely negro as was Hayti. If the whites must yield to apparent destiny, they would make terms and amalgamate with the dominant race, or they must emigrate from the State, as they had from the river deltas, for Mississippi had no mountain country to furnish manufactures or a white population. They did neither. The fact that one Federal general was governor and another had put down their revolt at Vicksburg, that acts of some hotheads were by Northern opinion visited upon the whole State, only deepened white determination. All these things but made them realize that there could be no compromise, that the Anglo-Saxon, like the Roman, must not despair of the republic.

White organization began in a legislative caucus and was perfected in a convention addressed by L. Q. C. Lamar, who became the leader. The keynote of the attack was Ames's creation of a negro militia and governmental extravagance. The natural bent of the Mississippians led to open military organization, and the result was race conflicts, in which it was claimed the negroes were generally the aggressors and certainly always in the end the chief sufferers. From the Yazoo Riot the Carpetbagger Colonel Morgan fled to Jackson and his threatened return with negro militia caused an excitement which boded civil war. Disturbances followed in Coahoma and Issaquena counties on the river, when ex-Federals and ex-Confederates united in military movements for home protection, and Alcorn was as active as Chalmers. The most serious conflict was at Clinton in Hinds County, and many companies assembled to revenge the massacre of several whites.

Governor Ames appealed to President Grant, who expressed himself as realizing that the public was tired of Federal interference in the southern autumnal outbreaks. Thereupon Ames organized his negro militia and began

arming them, and this brought excitement to fever heat. The Democrats succeeded in getting the Republican chief justice to enjoin the raising of an army and ultimately through the mediation of a special agent of the Federal attorney general a peace agreement was entered into by which the Democratic leaders guaranteed order and the governor discontinued his military preparations. The president favored this, and all good men, white and black, breathed a sigh of relief.

Few disturbances now occurred but the whites resorted to all means of influence and intimidation short of positive violence, and at least as much was done by the Republicans on the other side. The whites discriminated against employees who would not support Democratic candidates, and declared that "whoever eats the white man's bread must vote with the white man or refrain from voting."

The election passed off November 3d with little disturbance. Many conservative negroes voted with the Democrats, others stayed at home, and the State went Democratic by 30,000. This carried the legislature, all members of congress but two, all State officers then chosen, and officials of sixty-two out of seventy-four counties. It was a political revolution, recognized by many Republicans, as by the negro ex-Senator Revels in a letter to President Grant, as a public blessing.

When the legislature met in January, 1876, steps were taken to impeach the negro lieutenant-governor and superintendent of education, as well as Governor Ames. Davis and Cordoza were thus removed from office, and the governor on advice of counsel resigned after the charges against him were dismissed. Ames, who was a son-in-law of General B. F. Butler, was personally an honest and courteous man, and had tried with more zeal than discretion to organize a State out of two races. He learned too late the lesson of Reconstruction, that the Anglo-Saxons will not submit to government by an inferior race.

A senatorial investigation under Senator Boutwell recalled the days of Thaddeus Stevens; for the committee found

everything wrong, and recommended that Mississippi be denied representation in Congress and reduced to a territory until education and other means could reconstruct it on a republican basis. But, as Evarts pictured Boutwell in the great impeachment trial,—*sic itur ad astra*,—the load was too heavy. Further reconstruction was not to be.

Ames had gone back home to Massachusetts and now Carpetbaggers left by the hundred, especially for Washington, and next year the Republican executive committee passed a formal resolution dissolving the party.

The movement of 1874 affected the whole country. In New York Samuel J. Tilden, who had long taken part in politics, but only lately had won national fame in the prosecution of the Tweed Ring, was elected governor over so distinguished a man as General Dix, while in the West, Allen became governor of Ohio and Hendricks of Indiana.

With the ending of the old issues and the beginning of the new came the death of Charles Sumner. Since he had become hostile to President Grant he had lost much influence, but he had lived on, devoting his great talents to the advancement of what he deemed proper policies, until in March, 1874, the exhaustion of a speech brought on *angina pectoris*, of which he died. The memorial services were striking, and notably so for the noble eulogy pronounced by L. Q. C. Lamar, then in the House from Mississippi.

Other changes of public men almost as marked came with the political revolution. For the first time since 1859 the Democrats carried the lower house of Congress and elected enough senators to destroy the two-thirds' Republican majority which had so long prevailed in the upper house. Just before the Democrats acceded to power the Republicans passed a bill for the resumption of specie payments, but after the fourth of March, 1875, the fact that the two houses were controlled by opposing parties prevented the enactment of any great political measure. Even an amnesty bill failed, and public affairs awaited the result of the approaching presidential election.

This campaign of 1876 was waged under the uncertainty caused by the equal balance of parties. In nominations up to this time there had been no question from the beginning who would be the candidates, at least of the Republicans. Lincoln had, of course, succeeded himself and General Grant was the demand of the country. On the Democratic side there had been less unanimity, but with them it had been each time almost a forlorn hope. Now the new issues had brought new men to the front in both parties.

The Republican convention met at Cincinnati on June 14th, with James G. Blaine as the favorite, presented in a remarkable speech by Robert G. Ingersoll. Morton was also prominent, but after a number of ballots, Rutherford B. Hayes, who had carried Ohio in a close contest for governor, received the nomination. The platform endorsed the resumption act, called for the reform of the civil service which the Liberal Republicans had asked four years before, but reaffirmed the old policies of the party.

The Democratic convention met at St. Louis two weeks later, and, despite the opposition of Tammany leaders, nominated Tilden on the second ballot. The platform departed from old questions, called attention especially to the tariff, denounced administration corruption and the southern policy heretofore pursued, in words supposed to represent the views if not to be in the language of Tilden. The issues were joined and both sides submitted their cause to the decision of the voters.

The canvass was conducted with the sagacity which one would expect from Zachariah Chandler, managing for Hayes, and Tilden, managing for himself with the assistance of Abram S. Hewitt, and to the last moment the result was doubtful. The general impression the night after the election was that Tilden was elected, but Chandler early next morning claimed that Hayes had received the necessary one hundred and eighty-five electoral votes, and from this Chandler never swerved. His claim counted South Carolina, Florida and Louisiana for the Republicans, and calls

for a consideration of affairs in these, the only southern States which had not become Democratic by 1875.

The political and economic conditions in these States were in 1876 deplorable. The necessity for union of all men with anything at stake became evident, and when they could be protected against fanatics of their own race not a few negroes were ready to aid the whites as they had in Mississippi. Wade Hampton had been a distinguished soldier, and, as earlier he had opposed reopening the slave trade, so now he advocated treating with fairness and kindness the negroes, who had been faithful during the war. In 1876 he made a brilliant campaign for the governorship against Chamberlain. Red shirts were the uniform, "Hurrah for Hampton" the battle cry and the attendance of ladies at political meetings showed the realization that even homes were at stake. In Florida the excitement was almost as great and George F. Drew as the Democratic opponent of M. L. Stearns had good promise of success. In Louisiana Kellogg made every preparation for the election, sending Federal officials and others into the Democratic strongholds of the northern parishes and using Federal troops to make political arrests. The Republican exertions resulted in the more complete arousing of the whites, and on the face of the returns in November the Democrats carried all three States.

The official canvass in each capital was witnessed by prominent northern men, by the newspapers dubbed "visiting statesmen", and methods up to that time peculiar to carpet-bag politics now came to general knowledge. The returning boards, exercising powers claimed under the law, threw out sufficient precincts in the three States to change the result and gave certificates to the Hayes electors, but in both Louisiana and South Carolina each party organized State governments, and in Florida the matter found its way into the State supreme court. The excitement throughout the country was intense, for half the people doubted the returning boards. The fruits of reconstruction now ceased to be local and became national.

At times in the life of a people there comes an *impasse*, when there is room for neither advance nor retreat, and war may follow; but the law-loving Americans have generally found a solution of such difficulties by mutual concession. The constitution itself was secured by compromise, and so it is not surprising that a similar course should be adopted in emergencies not covered by that instrument. The three most striking instances before the Civil War were the Missouri Compromise, the Tariff Compromise of 1832, and the Compromise of 1850. Patriotism demanded that some way be found out of the new difficulty other than another civil conflict, which this time would not be sectional but of household against neighbors. Through her Henry Clay, the West, a joint product of northern and southern blood and effort, had taken the lead in the previous compromises, and it was perhaps not unnatural that at the present crisis a Republican representative from Iowa should offer and a Democratic committee chairman from Kentucky should report to Congress the measure by which was to be settled the presidential election of 1876. Under this act the disputed returns were canvassed by a commission of five from each house and five from the Supreme Court, of whom Justice Bradley had the casting vote. The result was favorable to Hayes.

Rutherford B. Hayes became president March 4, 1877. His inaugural address made plain that the negro was no longer to be treated as a ward of the nation, but left to the State governments for regulation and development. The new president's selection of a Cabinet showed his determination to look forward and not backward. Evarts became secretary of state, John Sherman of the treasury, Schurz of the interior. A return to Andrew Johnson's policy of non-interference with the southern State governments was marked by giving the postmaster general's portfolio to David McKendree Key, the senator from Tennessee, who was serving out Johnson's unexpired term.

In the 45th Congress, too, which succeeded the last one of President Grant, were many new men. The death of

Oliver P. Morton in 1877 removed the last of the great reconstructionists. Morton, Stevens and Sumner were not the only leaders in the movement, but without them Reconstruction would have been impossible. Stevens had lived to see it in the full flush of success, Sumner as it was pausing after attaining its height, and Morton died with it. His senatorial toga fell to a Democrat, D. W. Voorhees. The political revolution was marked in other new men in Congress. In the Senate Garland entered from Arkansas, Hill from Georgia, Hoar from Massachusetts, and Blaine was elected from Maine, and among new members of the House came T. B. Reed, of Maine, and William McKinley, of Ohio.

It was generally reported that the decision of the Electoral Commission was accepted by the Democratic leaders because of an agreement that the white governments would be recognized in the three disputed States. This may be doubtful, but at least with Grant departed the methods which were not unnatural to a soldier and with Hayes came in a *laissez faire* policy. The troops were withdrawn from the capitals and southern affairs left to settle themselves. Chamberlain immediately surrendered the South Carolina records and Hampton's rule was undisputed, while the action of the Supreme Court of Florida, although the majority were Republican, seated Drew. For several months Louisiana had enjoyed two sets of rulers. The jurisdiction of Packard, however, was limited to the State house, where hundreds of negroes ate and slept until smallpox broke out, while Nichols was generally recognized throughout the State. No violence was used on the part of Nichols, but when, after the national situation cleared up, the president withdrew the troops, the effect was instantaneous. Packard left Louisiana as Chamberlain did South Carolina and their adherents were scattered to the four winds. White rule was supreme at last.

If a southerner was in the Federal Cabinet and others in position to aid in Federal legislation, nevertheless the greatest efforts of the South were needed at home. The census

showed by 1870 a smaller agricultural product than just before the war, and if there was some increase in cotton factories the economic transformation from plantation to farm system was in its painful process. The panic of 1873 retarded recuperation but from the White Revolution we find a marked improvement, especially in cotton production and manufactures.

The success of the whites brought only advantage to the blacks. No Black Codes were enacted and with the departure of the Carpetbaggers kindly feelings gradually returned between the races. The South had never abandoned its belief that the black race was in tutelage to the white, and now, left alone, it almost unconsciously began to evolve a stratified rather than a homogeneous civilization. Lincoln's colonization had proved a dream, Stevens's plan of amalgamation had been rejected, and no necessity was found for resort to any form of race extermination. Black servants were in every white man's house as well as in every field, every industry was open and only the criminal need fear the law. In kindly freedom instead of patriarchal slavery the negro might prove an exception to the rule that inferior races must disappear before the Anglo-Saxon.

A compromise of vaster import than that of 1850 had been reached, not the less valid because tacit. The negro was assured liberty and civil equality, and the crusade for fraternity was abandoned.

If the North at last left the negro question for solution by the South, the South on the other hand recognized the validity of the constitutional amendments, despite the irregularity of their adoption, and the nationalist implications of the Legal Tender and Slaughter House Cases in the Supreme Court. State sovereignty had failed in its appeal to arms, and on the other hand centralization had finally failed in its appeal to the ballot even of the dominant section. The cornerstone of American constitutional law, as declared by Chief Justice Chase in *Texas vs. White* in 1868, was that

there was an indissoluble Union of indestructible States; that States and Union were interdependent, each necessary for the other.

The great mass of the Southern people loyally accepted this Union. Yet the most conspicuous of the Southern leaders, the Confederacy's president, still refused to "accept the situation." He who estimated the Union—secured, as he said, with "little time, little money, and no blood"—as of less value than the rights of the States, remained irreconcilable. There is, however, much of pathos in his isolated life, the events of which were hardly noticed until death brought into momentary prominence the name of the man who had played a foremost part in the great struggle whose final issue was the indissoluble Union.

Like other countries, the United States had passed through the epoch of constitution making aimed especially at protection of individual liberty; through another of conflict of national and particularistic tendencies, and had found a solution in preserving the best of both. Time might be required to convince survivors from other days, prejudices must still abide, there would be differences observable between sections of so vast a land; but law not less than war, politics not less than commerce and industry, united in making plain to every observant mind that old things had passed away, that the Federal Union had been reconstructed. The people were a Nation, ready to take part in world politics and to meet the questions of internal policy which nationalization brings in its train. The period of Reconstruction was at an end.

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